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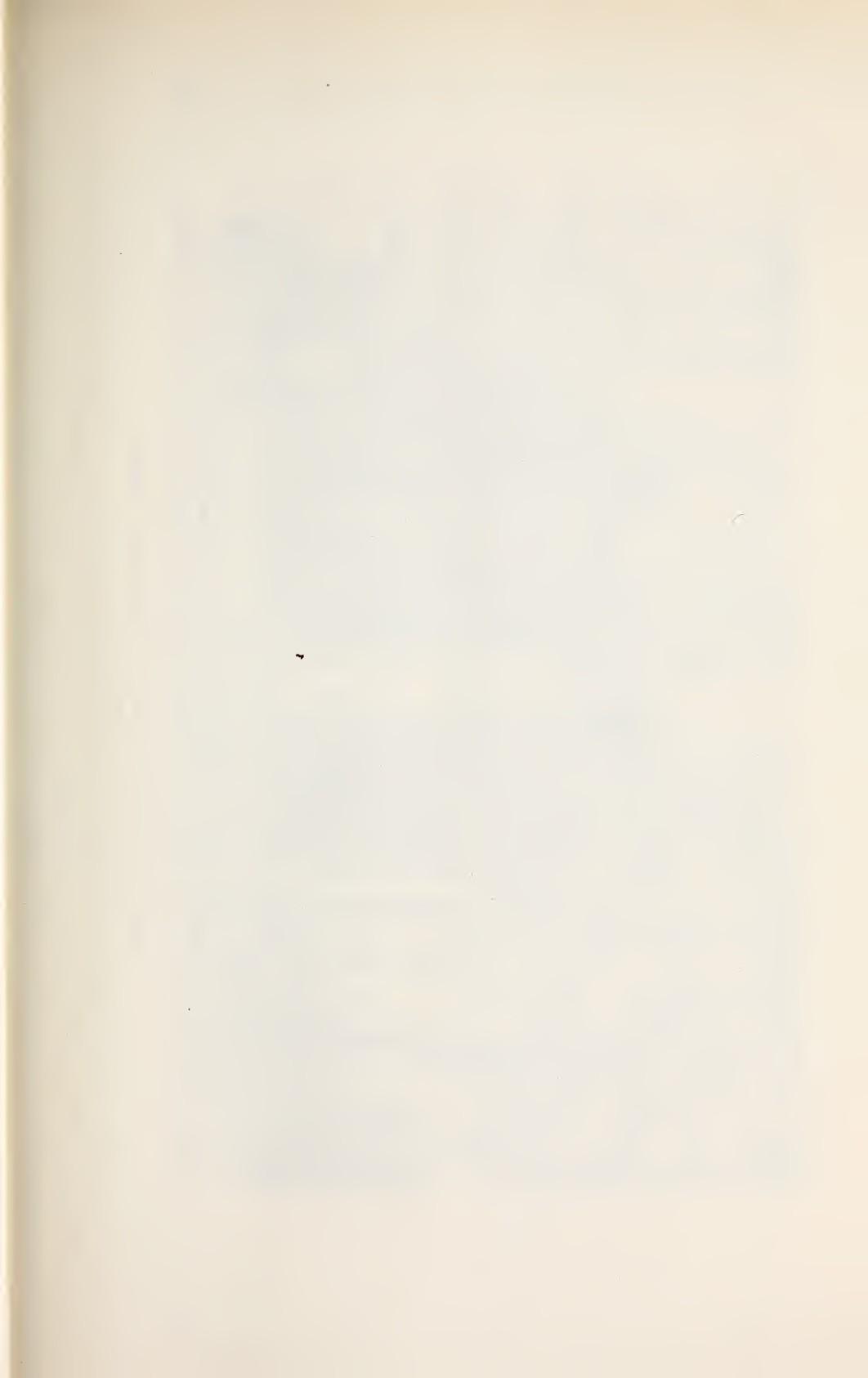


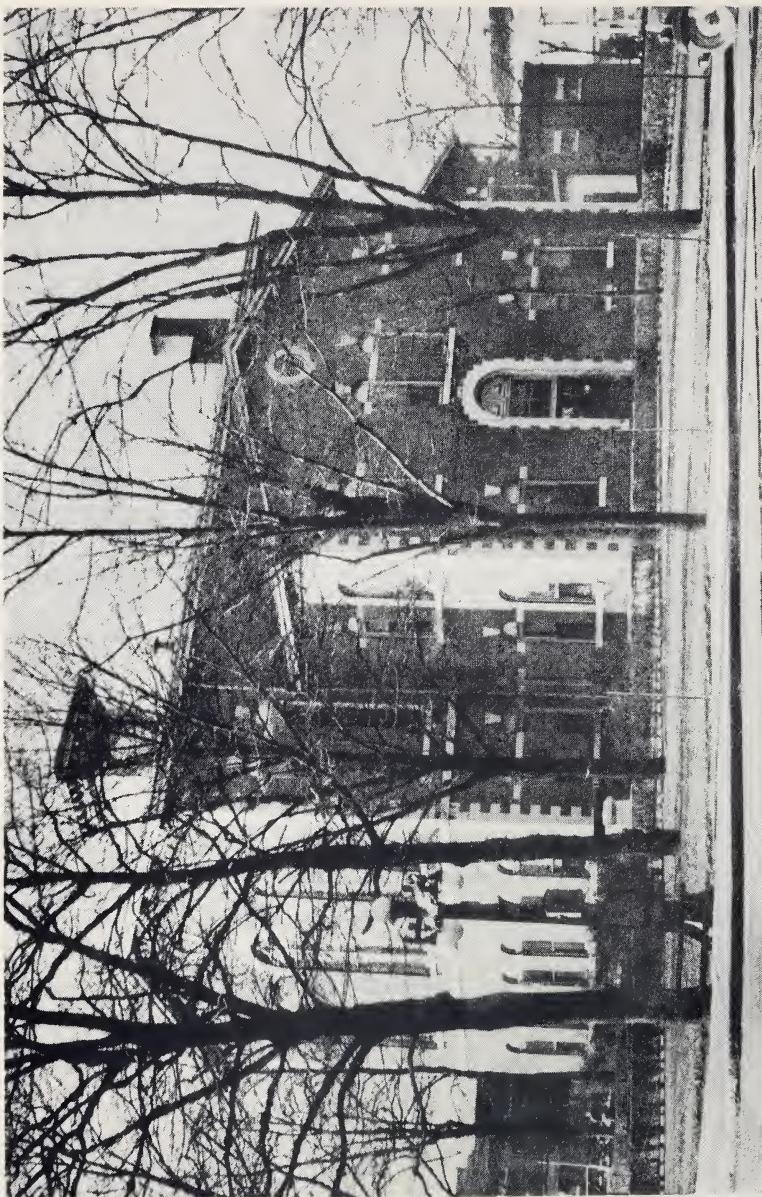
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MORGAN COUNTY COURTHOUSE, MARTINSVILLE, INDIANA

INVENTORY OF THE COUNTY ARCHIVES  
OF INDIANA

Prepared by

The Indiana Historical Records Survey Indiana  
Division of Community Service Programs  
Work Projects Administration

Sponsored by  
Indiana Historical Bureau

No. 55. MORGAN COUNTY  
(MARTINSVILLE)

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The Indiana Historical Records Survey  
Indianapolis

1941

## THE HISTORICAL RECORDS SURVEY PROGRAM

Sargent B. Child, Director

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Roger A. Hurst, State Supervisor

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1245195

## FOREWORD

The *Inventory of the County Archives of Indiana* is one of a number of guides to historical materials prepared throughout the United States by workers on the Historical Records Survey Program of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Morgan County, is number 55 of the Indiana series.

The Historical Records Survey Program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local government, and which provide invaluable data for students of political, economic, and social history. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, businessmen, and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by the Historical Records Survey Program attempt to do more than give merely a list of records—they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country, will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of the Historical Records Survey Program, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their cooperation is gratefully acknowledged.

## FOREWORD

The Survey Program was organized by Luther H. Evans, who served as Director until March 1, 1940, when he was succeeded by Sargent B. Child, who had been National Field Supervisor since the inauguration of the Survey. The Survey Program operates as a Nation-wide series of locally sponsored projects in the Division of Community Service Programs, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

HOWARD O. HUNTER  
Acting Commissioner

## PREFACE

The Historical Records Survey, now one of the projects of the Division of Community Service Programs of the Work Projects Administration, was organized in January 1936 with Luther H. Evans as National Director. The survey of local public records was begun in Indiana on February 19, 1936 as part of the Federal Writers' Project. Samuel J. Kagan was assigned to direct public records work, and was named State Director of the Survey in September 1936 when it became independent of the Writers' Project. On September 1, 1939 the Indiana Historical Records Survey became a state project under the sponsorship of the Indiana Historical Bureau. Roger A. Hurst was appointed State Supervisor of the Survey in January 1940, and Canis E. Brockway continued as Assistant State Supervisor until September 1940. Mr. Evans was succeeded as National Director by Sargent B. Child in March 1940.

The objectives of the Indiana Historical Records Survey are to discover, preserve, and make accessible historical materials of a public or semi-public nature. Inventories of the records of counties, cities, towns, and churches, and guides to manuscript depositories and collections are or will be published. The Survey also transcribes certain early county and municipal records as a measure of preservation.

The *Inventory of the County Archives of Indiana* will consist of a separate volume for each county. A list of inventories published to date appears at the end of this volume. Numbers are assigned according to the county's position in an alphabetical list and thus the Morgan County volume is number 55. The field work of the Survey in Morgan County was begun May 20, 1936 and completed June 1, 1936. Many field trips have been made since to check information used in this book and the final recheck was made in March 1940.

The inventory proper is preceded by essays on the history, government, and record housing of the county. The records themselves are described in entries giving the following information: Title of record, dates available, quantity, labeling, variant titles, description of contents, arrangement,

indexing, nature of recording, size, and location. The various bureaus of the county are arranged in functional order: Governing boards; major administrative offices; judicial offices; and financial, election, educational, health, public welfare, engineering, and other groups. Wherever applicable, natural groupings under separate headings are made within each bureau.

Field work for this volume was submitted to a state editorial staff, of which the department heads were: Frank E. Ross, general editorial; Marshall Cowgill, record entries; W. Davis Hamilton, legal research and legal essays; and Howard Oates, proofreading and indexing. Illustrative material was prepared by Fred S. Knodle, and this volume was multigraphed by Survey personnel under the direction of William Deupree, managing editor.

The Survey is deeply indebted to many Morgan County officials; to Dr. Christopher B. Coleman, Director, Indiana Historical Bureau, who gave valuable advice and service; to John K. Jennings, State WPA Administrator; to Mildred E. Schmitt, State Director, Division of Community Service Programs, who has rendered the Survey important service in administrative matters; to John D. Stuckey, Chief, Research and Records Programs; and to many others who contributed time and effort. The Indiana staff received valuable advice and criticism from the National Office of the Survey. This inventory in manuscript form was edited by Ernest J. Saigh, assistant editor, and further reviewed by Mabel S. Brodie, editor-in-chief of public records inventories.

Five hundred copies of this book have been published and many have been distributed to libraries, universities, government offices, and other depositories over the state and the nation. Copies will also be available in Morgan County for persons, offices, or institutions having occasion to use county records or to study local government.

ROGER A. HURST  
State Supervisor  
The Indiana Historical Records Survey

Indianapolis, Indiana

February 1941

MORGAN COUNTY OFFICIALS

1941

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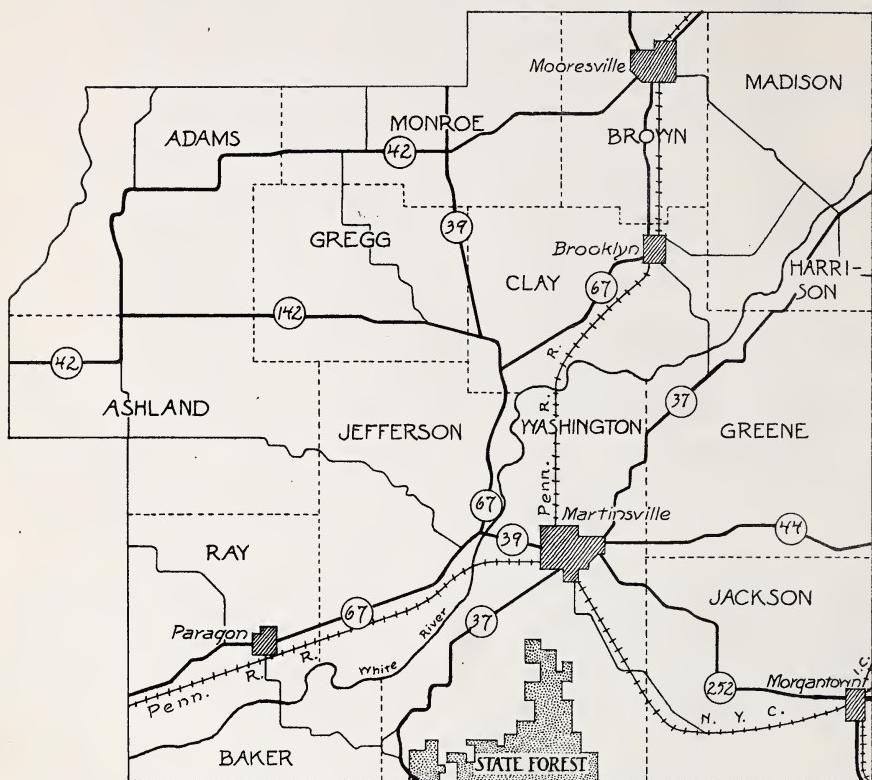
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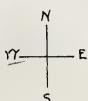
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1 2 3 4 5 7

Scale of Miles



MAP OF MORGAN COUNTY

## PART A. MORGAN COUNTY AND ITS RECORDS SYSTEM

### 1. HISTORICAL SKETCH

Morgan County is located in the central part of Indiana. By counties it is bounded on the north by Marion and Hendricks, on the east by Johnson, on the south by Monroe and Brown, and on the west by Putnam and Owen. Its greatest east and west dimension is 23½ miles and its greatest north and south dimension is 20 miles. Its eastern and southern boundaries are straight lines but there are 3-mile and 2-mile offsets on the west and north sides respectively. These reduce the length of the county at the south side to 20½ miles and the width at the west end to 18 miles. An irregularity at the northwest corner, where Mill Creek becomes the boundary of the county, also causes the county to deviate from the shape of a rectangle. Its area is 406 square miles or 259,840 acres. It was named for General Daniel Morgan, of Revolutionary War fame.<sup>1</sup>

### NATURAL SETTING

The county belongs in part to two physiographic areas. The northern and eastern parts lie in the Tipton Till Plain, a level, heavily glaciated area in central Indiana constituting about one-third of the state, its southern boundary passing in a sickle-like curve through Morgan County. The remainder of the county is a part of the Norman Upland, a long, narrow, unglaciated area deeply dissected by stream action which extends from the Tipton Till Plain in Morgan County, on the north, to the Ohio River on the south.<sup>2</sup> The part of the county belonging to the former area is level to rolling, while that belonging to the latter area is rough and broken and poorly adapted to agricultural purposes.<sup>3</sup> The county lies

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<sup>1</sup> *Year Book of the State of Indiana for the Year 1936* (Fort Wayne, Indiana, 1937), 883. Henry Gannett, "The Origin of Certain Place Names in the United States," *U. S. Department of the Interior, Bulletin No. 258* (Washington, D. C., 1905), 214.

<sup>2</sup> For map see *Handbook of Indiana Geology* (Indianapolis, Indiana, 1922), 66.

<sup>3</sup> Indiana, *Annual Report of the Department of Geology and Natural Resources, 1911* (Indianapolis, Indiana, 1912), 83 (series hereinafter cited as *Indiana Geological Report*).

entirely in the drainage basin of the West Fork of White River, but the northwestern part is drained by Mill Creek, whose waters reach White River through Eel River.

The West Fork of White River crosses the eastern boundary of the county 3 miles south of the northern boundary, flows in a southwesterly course across the county, leaving it near the southwest corner. Its Morgan County tributaries from the north are White Lick Creek, Sycamore Creek, Lamb's Creek, Burnett's Creek and Burkhart's Creek. Those from the south are Stott's Creek, Clear Creek, Indian Creek and Bryant's Creek.

Climatological figures for Morgan County are not available, but near-by Indianapolis has an annual precipitation of about 42 inches and a mean annual temperature of about 58° Fahrenheit. Its growing season from 1899 to 1903 inclusive averaged 194 days.<sup>4</sup>

#### EARLY INDIANA

Before the coming of the white men to Indiana, a copper colored people whom the white people erroneously called Indians, roamed its forests and paddled their canoes on its streams. They subsisted mostly by hunting and fishing but in addition practiced a rudimentary agriculture.

The tribe most intimately identified with Indiana was the Miami, whose territorial claims as laid down by their great chief Little Turtle embraced the entire state.<sup>5</sup> Unwilling or unable to enforce their claims, they permitted other tribes to live within or frequent the state. Among these were the Delaware, who a few years before the outbreak of the American Revolution obtained permission from the Miami to occupy the region between the Ohio and White Rivers.<sup>6</sup>

The first white people to come to Indiana were the French. In the latter part of the seventeenth century they made voyages of discovery and exploration from Canada into the Ohio country, as the area between the Ohio River and the Great Lakes came to be called. These visits were followed by trading and missionary activity among the natives of the

<sup>4</sup> W. J. Geib and Frank C. Schroeder, "Soil Survey of Marion County," *Indiana Geological Report, 1911*, p. 450.

<sup>5</sup> *American State Papers, Indian Affairs* (Washington, D. C., 1832), 1:570, 571.

<sup>6</sup> F. W. Hodge, editor, *Handbook of American Indians North of Mexico* (Washington, D. C., 1912), 1:385.

region. In the first half of the eighteenth century three French trading posts were established in what is now Indiana: Post Miami, on the present site of Fort Wayne, about 1715; Ouiatenon, on the Wabash, near the present site of Lafayette, about 1719 or 1720; and Vincennes, on the lower Wabash, sometime before 1733.<sup>7</sup>

Early in the eighteenth century the English began to enter the Ohio Valley from the east. The conflicting claims of the two nations led to the French and Indian War, as a result of which the French lost their colonial empire in America. During the American Revolution, George Rogers Clark in the service of Virginia conquered the area and in 1778 Virginia organized it as the "County of Illinois."<sup>8</sup> At the close of the Revolution, Virginia, New York, Connecticut, and Massachusetts, each of whom laid claim to the region in whole or in part, ceded their claims to the United States, and in 1787 Congress organized the area as the Northwest Territory.<sup>9</sup> From this region five states and a part of a sixth were subsequently created. Indiana Territory, embracing all the area between the present State of Ohio and the Mississippi River, except a small wedge-shaped portion of southeastern Indiana known as "the gore," was organized in 1800.<sup>10</sup> In 1816, Indiana, with approximately its present boundaries, was organized and admitted into the Union as a state.<sup>11</sup>

The Indian titles to lands in Indiana were extinguished as a result of 54 separate cessions extending from the Treaty of Greenville in 1795 to 1872, when the last reserve was abolished.<sup>12</sup> By treaties with the Delaware and Miami at

<sup>7</sup> Oscar J. Craig, "Ouiatenon," *Indiana Historical Society Publications* (Indianapolis, Indiana, 1893), vol. 2, no. 2; P. G. Roy, "Sieur de Vincennes Identified," *Indiana Historical Society Publications*, vol. 7, no. 1; M. M. Quaife, "Fort Wayne in 1790," *Indiana Historical Society Publications*, vol. 7, no. 7; P. C. Phillips, "Vincennes in Its Relation to French Colonial Policy," *Indiana Magazine of History*, December 1921 (Bloomington, Indiana, 1921).

<sup>8</sup> Adam Shortt and A. C. Doughty, *Documents Relating to the Constitutional History of Canada, 1759-1791* (Ottawa, Ontario, 1907). William Waller Hening, *The Statutes at Large . . . of Virginia* (Richmond, Va., 1821), 9:552.

<sup>9</sup> Clarence E. Carter, editor, *The Territorial Papers of the United States* (Washington, D. C., 1934), 1:39-50.

<sup>10</sup> *Annals of Congress*, 6th Congress, 1st Session (Washington, D. C., 1834-56), 1498.

<sup>11</sup> For the enabling act see *ibid.*, 14th Congress, 1st Session, 1841; for the resolution admitting Indiana to the Union see *ibid.*, 14th Congress, 2d Session, 1848.

<sup>12</sup> For a complete list of the cessions, together with a map showing their locations, see

## MORGAN COUNTY

St. Mary's, Ohio, in 1818, the territory from which Morgan County was created was obtained as a part of the "New Purchase," from which 37 Indiana counties in whole or in part were created.<sup>13</sup>

The cession of lands created a great deal of dissatisfaction among the Indians, especially the Shawnee, who, under the leadership of Tecumseh and the Prophet, maintained that no tribe had a right to alienate Indian lands without the consent of all the tribes. This dissatisfaction culminated in the Battle of Tippecanoe in November 1811, in which the Indians were decisively beaten by William Henry Harrison. As a result of this battle the attempt of Tecumseh to organize an Indian Confederacy to resist further encroachment by the whites collapsed.<sup>14</sup>

## WHITE SETTLEMENT

Before the War of 1812 Frenchmen came from Vincennes and established near the present site of Waverly a trading post at "the bluffs," which they called Port Royal but which was known to the early pioneers as "The Far West."<sup>15</sup> The first person to settle permanently in Morgan County can not be stated with certainty. Mrs. Rebecca Douglass claimed to have come to the county in 1817 and to have settled there among the Indians.<sup>16</sup>

The distinction of being the county's first settler has

William Henry Smith, *History of the State of Indiana* (Indianapolis, Indiana, 1903), 1:181-186. For the text of the treaties see "Treaties between the U. S. and the Indian Tribes," *The Statutes at Large of the United States of America* (Boston, Mass., and Washington, D. C., 1845-), 7:49 *et seq.* (series hereinafter cited as U. S. Stat.); and Charles J. Kappler, *Indian Affairs, Laws and Treaties*, published as *U. S. Senate Document No. 452*, 57th Congress, 1st Session (Washington, D. C., 1904), 2:30 *et seq.*

<sup>13</sup> U. S. Stat., 8:188-192. James A. Woodburn, "The New Purchase," *Indiana Historical Society Publications*, 6:43, 44.

<sup>14</sup> For a brief account of the relations between the Indians and the United States that culminated in the battle of Tippecanoe see William Henry Smith, *op. cit.*, 1:101-119. For an account of the battle by a white participant see Judge Isaac Naylor, "The Battle of Tippecanoe," in the *Lafayette Morning Journal*, June 23, 1906, reprinted in *The Indiana Magazine of History*, December 1906. For a description of the battle by Shabonier or Shabonee, an Indian participant in the battle, see J. Wesley Whisker, "Shabonee's Account of Tippecanoe," *Indiana Magazine of History*, December 1921.

<sup>15</sup> Martinsville *Reporter*, October 12, 1922.

<sup>16</sup> Cline and McHaffie, *The People's Guide: A Business, Political and Religious Directory of Morgan County, Indiana* (Indianapolis, Indiana, 1874), 136.

also been claimed for Cyrus Whetzel, who with his father, Jacob Whetzel, blazed a trail from Laural in Franklin County to "the bluffs" in Morgan County in 1818. He selected a site for a home below the present Waverly, and the next March young Whetzel and a companion whose identity is no longer known built a cabin, cleared a few acres of ground and planted corn.<sup>17</sup> In the same year, probably as many as 10 or 15 families settled in the county and by New Year's Day, 1821 it is thought that as many as 50 or 60 families were living there.<sup>18</sup> Numbered among the early settlers were Robert Stotts, Nathan Laughlin, W. M. Offield, the Hodges, Samuel Moore, Judge Hiram Mathews, Benjamin Huffman, Jonathan Williams, Larkin Reynolds, George H. Beeler, G. A. Phillips, Benjamin Cuthbert, Ruben Claypool, Alexander and Thomas J. Worth, Daniel Thorberg, Jack Record, John Bray, Madison and Richard Hadley, Benjamin Stafford, and Rebecca Blunk.<sup>19</sup>

The earliest settlers of the county were squatters; that is, they settled on public land without first taking steps to acquire its ownership. During the years 1819 and 1820 the lands of the county were surveyed by Thomas Brown, B. Bentley, W. B. Laughlin, Stephen Collett, A. E. Van Ness, John Milroy, and William Harris, and on September 4, 1820 they were placed on the market. During the remainder of the year 1820, 54 persons entered land in the county.<sup>20</sup> These early entries were made at the land office at Brookville, provided for by an act of Congress of March 3, 1819.<sup>21</sup> By an act of Congress April 24, 1820, the minimum price of public land was lowered from \$2 to \$1.25 per acre. The credit system of payment provided for by an act of 1796 was abolished by the act of 1820.<sup>22</sup>

#### CREATION AND ORGANIZATION

Morgan County was created by an act of the Indiana General Assembly of December 31, 1821, effective February 15,

<sup>17</sup> Noah J. Major, *The Pioneers of Morgan County*, edited by Logan Esarey and published as *Indiana Historical Society Publications*, vol. 5, no. 5 (Indianapolis, Indiana, 1915), 242, 243.

<sup>18</sup> *Ibid.*, 237.

<sup>19</sup> Cline and McHaffie, *op. cit.*, 136.

<sup>20</sup> Charles Blanchard, editor, *Counties of Morgan, Monroe, and Brown, Indiana* (Chicago, Illinois, 1884), 12, 13.

<sup>21</sup> U. S. Stat., 3:521, 522. Blanchard, *op. cit.*, 12.

<sup>22</sup> U. S. Stat., 3:566, 567.

1822. The act creating the county deigned the boundaries as follows: "Beginning on the township line, dividing ten and eleven north, where the line dividing ranges two and three east crosses the same; thence west to the center of range two west of the second principal meridian, thence north nine miles, thence west three miles, to the line dividing two and three west, thence north eleven miles to the corners of section nineteen and thirty, thence east with said line twenty-four miles to the line dividing ranges two and three east, thence south to the place of beginning."<sup>23</sup> The boundary thus prescribed remained the boundary until an act of the Indiana legislature of March 11, 1861 made Mill Creek a part of the western boundary as at present.<sup>24</sup> The present boundary was adopted when, in response to a petition signed by a majority of the people in the territory involved, that part of the county between Mill Creek and the second principal meridian and north of the line dividing ranges 13 and 14 north was transferred to Hendricks County.<sup>25</sup>

By the act organizing the county, James Borland of Monroe County, Thomas Beazely of Lawerence County, Phillip Hart of Owen County, and John Martin and James Milroy of Washington County were appointed commissioners for the purpose of fixing the seat of justice of the new county.<sup>26</sup> Agreeable to instructions, the locating commissioners met at the home of John Gray to discharge the duties assigned them by law. Three sites were considered. Waverly had the advantage of being the oldest settlement but it was located in the extreme northeast part of the county. Centerton was centrally located but there were few settlers in its immediate vicinity and its merits were not sufficiently promoted and publicised. Martinsville, although neither centrally located nor possessed of many people, had its advantages attractively presented by able men whose arguments were reinforced by donations of land.<sup>27</sup> The report of the locating commission was presented to the board of commissioners at the first session of that body and formally accepted.<sup>28</sup> It is not known definitely

<sup>23</sup> Acts 1821-22, ch. 24, sec. 1.

<sup>24</sup> Acts 1861, ch. 43, sec. 1.

<sup>25</sup> For maps showing the evolution of the county boundary see George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County* (Indianapolis, Indiana, 1933), 614-619.

<sup>26</sup> Acts 1821-22, ch. 24, sec. 2.

<sup>27</sup> Blanchard, *op. cite.*, 81.

<sup>28</sup> *Ibid.*, 15.

how the town came to be called Martinsville but it may have been named for John Martin, the oldest of the locating commissioners.<sup>29</sup>

A total of 155 acres of land was donated to the county in consideration of the selection of the site of Martinsville for the county seat; 37½ acres by Joel Ferguson, the same amount by Jacob Cutler, and 40 acres each by John Gray and Joshua Taylor. During the latter part of May 1822 the new county seat site was surveyed and platted by County Surveyor James Gattelly, assisted by Benjamin Hoffman, Larkin Reynolds, and Jonathan Williams. Forty-two blocks were laid off, the total area extending 7 blocks from east to west and 6 blocks from north to south. These were divided into town lots. The first public sale of town lots took place in June 1822. Others were held in August and November of the same year. The total receipts of the three sales amounted to \$364.02. Other sales were held in succeeding years but all the lots were not disposed of for about 30 years.<sup>30</sup>

The first election was held early in 1822. Larkin Reynolds, Samuel Reed, James Burris, and Hiram Matthews were elected justices of the peace. George H. Beeler was elected clerk of the circuit court, and Jacob Cutler and John Gray were chosen associate judges.<sup>31</sup>

The first session of the circuit court was held at the home of Jacob Cutler on March 25, 1822 with William W. Wick, president judge of the 5th judicial district, presiding. The first act of the court was the adoption of a seal. Its next act was to admit Hiram M. Curry, Craven P. Hester, and Calvin Fletcher to the practice of law in the county, the latter being appointed prosecuting attorney. The first suit was a case in chancery between Jacob Cutler and J. M. Cox.<sup>32</sup>

The first session of the board of commissioners was held at the home of Jacob Cutler early in June 1822. One of the first acts of the board was the creation of Washington, Monroe, Ray, and Harrison townships.<sup>33</sup> A fire which occurred in the vaults of the clerk and auditor on March 31, 1876 destroyed the records of the board and little is known concerning

<sup>29</sup> *Ibid.*, 81. Ernest V. Shockley, "County Seats and County Seat Wars in Indiana," *Indiana Magazine of History*, March 1914.

<sup>30</sup> Blanchard, *op. cit.*, 82, 83.

<sup>31</sup> *Ibid.*, 15.

<sup>32</sup> Morgan Circuit Court, Order Book, A:1-5, see entry 131.

<sup>33</sup> Blanchard, *op. cit.*, 15.

its proceedings prior to December 1866. There are today 14 townships in Morgan County: Adams, Ashland, Baker, Brown, Clay, Greene, Gregg, Harrison, Jackson, Jefferson, Madison, Monroe, Ray, and Washington.<sup>34</sup>

#### EARLY COUNTY FINANCE

The early government of Morgan County was simple and its burden correspondingly light. The initial costs were probably met by issuing county orders, as certificates of indebtedness were called. Another source of ready revenue was the sale of town lots in Martinsville,<sup>35</sup> and other revenues listed for the year 1822 were \$20 for a store license issued to Jonathan Lyon, \$10 for a tavern license issued to Christopher Ladd, \$103.81 received from Benjamin Cutler, collector (source not indicated), \$2.50 from tax on court writs, and \$45 delinquent taxes. Expenses incurred during the 1st year amounted to \$467.83, of which amount \$364.02 was paid over by the county treasurer to the board of commissioners and \$103.81 was paid to redeem county orders. For the year 1823 both receipts and expenses increased, the former totaling \$590.90 and the latter totaling \$496.59. For the year 1826 the cash receipts were \$540.93 of which amount \$218.20 was listed as county revenue, \$229.61 was derived from the sale of town lots, and \$64.25 was obtained from store and tavern licenses. For the year 1829 receipts were \$1,072.63 and disbursements \$919.63.<sup>36</sup> The county most likely did not incur a bonded indebtedness until its third courthouse was built in 1859.<sup>37</sup>

#### TRANSPORTATION

Prior to the coming of the white men there were no roads in Morgan County other than trails and traces required for and made by the movements of Indians and animals. Such an Indian trail crossed the site of Martinsville from the northeast to southwest passing near the southeast corner of the public square.<sup>38</sup> Travel over such trails was laborious

<sup>34</sup> *Ibid.*, 20. *Year Book of the State of Indiana for the Year 1936*, p. 883.

<sup>35</sup> Blanchard, *op. cit.*, 82, 83.

<sup>36</sup> *Ibid.*, 41, 42.

<sup>37</sup> *Ibid.*, 20, 40.

<sup>38</sup> *Ibid.*, 81.

and wherever possible the Indians as well as the white men utilized the streams as avenues of travel. In January 1820 the Indiana General Assembly declared the West Fork of White River a public highway.<sup>39</sup> By an act of February 10, 1831 Big Indian Creek was declared a public highway from its mouth to Jacob Cutler's Mill.<sup>40</sup> An act of December 31, 1825 empowered the Board of Justices of Morgan County and of other Indiana counties bordering White River to appoint freeholders to supervise the clearing of obstructions from the river.<sup>41</sup> On the banks of the streams thus kept open for navigation, flatboats were constructed and when the spring freshets came were launched, loaded with wheat, flour, pork, corn, lumber, and other products and floated to New Orleans and other southern markets. The distance from Martinsville to New Orleans by river was estimated to be approximately 1,800 miles and it required about 6 weeks to make the trip. It is thought that nearly 345 flatboats from Morgan County made this trip during the 25 years from 1829 to 1853, an average of about 14 per year. The total value of the cargoes was estimated to be \$1,380,000 or \$4,000 each.<sup>42</sup>

Despite the large amount of traffic conducted in this manner it did not meet the transportation needs of the county. It was difficult to "pole" a flatboat on the return trip against the current and accordingly the boats were usually disposed of in the southern market and the return trip made on foot, on horseback, by canoe, or steamboat. Only by steamboat could any considerable cargo be returned. This was expensive and only at high water could a steamboat ascend the river as far as Morgan County. If, therefore, the county was to be able to dispose of its surplus produce and obtain those goods which it needed but could not produce in exchange, it was necessary that other means of transportation be found.

The act of Congress enabling the people of Indiana Territory to form a constitution and state government set aside 5 percent of the proceeds of the sale of public land within the state for the building of roads, bridges, and canals. Three percent was given to the state to be applied to the building of roads, bridges, and canals within the state and 2 percent was reserved by the United States for the building

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<sup>39</sup> Acts 1819-20, ch. 32, sec. 1.

<sup>40</sup> Acts 1830-31 (special), ch. 43, sec. 1.

<sup>41</sup> Acts 1825-26, ch. 50, sec. 1.

<sup>42</sup> Major, *op. cit.*, 396-409.

of roads and canals leading to the state.<sup>43</sup> An act of the Indiana General Assembly of January 1, 1817 made "every male person, eighteen years of age and under fifty, having resided thirty days within any township in the state" liable to work on the highways not to exceed 6 days in any 1 year.<sup>44</sup> Thus stimulated, the county's highways and bridges began to evolve. Due to the loss of the Commissioners' Record the history of these roads, the building of which required so much of the county's labor and money, is doomed to remain vague as compared with the history of the roads of those counties whose records have been preserved.

The first roads of the county were probably mere bridle paths or at most cartways from which the timber had been removed. Such roads were usually impassable in wet weather. To remedy this defect small timbers were placed crosswise on the road and the intervening spaces filled with dirt. Roads so constructed were known as corduroy roads, and, as the name indicates, they were rough. Plank roads remedied this defect but they were expensive and could be used only for the most traveled roads. Soon after 1848 a road of this kind was built from Mooresville through Waverly to Franklin. It was made of oak plank 12 feet long and 2 inches thick laid on heavy oak sleepers. For a time it was used extensively but in the course of time the heavy loads broke the boards and the toll being insufficient for its upkeep it was finally abandoned.<sup>45</sup>

Several of the early roads through the county were state roads. By an act of December 31, 1821 provision was made for two such roads, one "from Highlands on White River to Washington thence to Burlington thence to Indianapolis," the other "from the Horseshoe Bend to Paoli thence to Palestine thence to Bloomington thence to Indianapolis."<sup>46</sup> An act of January 12, 1829 provided for a road "from a point on the state line dividing the state of Indiana and Illinois, in the direction of Vandalia in Illinois, crossing the Wabash river at the town of Clinton in Vermillion County, Indiana, thence through Gallatin in Parke County, by the way of Greencastle in Putnam, Mooresville and Mills' ford on White River, and Port Royal in Morgan County to Franklin in Johnson County."<sup>47</sup>

<sup>43</sup> *Annals of Congress*, 14th Congress, 1st Session, 1841.

<sup>44</sup> Acts 1816-17, ch. 8, sec. 10.

<sup>45</sup> Almira Harvey Hadley. *A Brief History of Mooresville and Vicinity* (1918), 18.

<sup>46</sup> Acts 1821-22, ch. 81, secs. 6, 8.

<sup>47</sup> Acts 1828-29, ch. 83, sec. 1.

By an act of January 23, 1830 a commission was appointed to locate a road from Martinsville, by way of Lyon's Mill and Mooresville to the Michigan Road.<sup>48</sup>

About the middle of the nineteenth century gravel began to be used for producing a hard surface for roads. During the 1860's companies were organized for the purpose of constructing the Clear Creek, Monrovia and Belleville, Monrovia and Hall, Brooklyn, Mooresville and Monrovia, White River, and other roads. In the later seventies and early eighties the county took over these roads and constructed others.<sup>49</sup> Of the 500 miles of public roads in Morgan County in 1904, 100 miles were surfaced with gravel and 40 with stone.<sup>50</sup>

Work on the Central Canal was begun in 1837. It was to run from Wabash, located on the Wabash and Erie Canal, to Evansville by the way of Anderson, Indianapolis, and Martinsville. Before work on it was discontinued in 1838, due to the panic, the part between Indianapolis and "the bluffs" was almost completed.<sup>51</sup> The canal was later surrendered to a stock company which completed it to Hagerstown at great cost.<sup>52</sup> The canal was never of much use to the county.

The history of railroads in Morgan County began in 1847 when a movement was begun to give Martinsville a railroad connection with the Madison and Indianapolis Railroad at Franklin. The road was completed in 1852 but after being operated a few years it was abandoned. Soon after the close of the Civil War, General Ambrose Burnside not only rebuilt the road but extended it to Fairland in Shelby County, making connection with the Indianapolis, Cincinnati and Lafayette Railroad. In 1853 the New Albany and Salem Company, then operating a railroad from New Albany to Michigan City, projected a branch line from Gosport on this road to Indianapolis in one direction and to Vincennes in the other. The roadbed was graded and some of the culverts and bridges built. The work was discontinued, however, because of the panic of 1857. After the close of the Civil War, work was resumed on the railroad, and the people of Morgan County voted \$50,000

<sup>48</sup> Acts 1829-30, ch. 75, sec. 1.

<sup>49</sup> Blanchard, *op. cit.*, 32, 33.

<sup>50</sup> U. S. Department of Agriculture, *Office of Public Roads, Circular No. 66* (Washington, D. C., 1905), 3.

<sup>51</sup> George S. Cottman, "The Central Canal," *Indiana Magazine of History*, September 1907.

Major, *op. cit.*, 409-415.

<sup>52</sup> Morgan County *Gazette*, February 26, 1853.

to aid in its building. Martinsville voted \$30,000 provided the road crossed the river and passed through the town. The offer was accepted and the road finally built. It is now a part of the Pennsylvania system. The Martinsville-Fairland Road now belongs to the Big Four.<sup>53</sup> The county's third railroad, the Illinois Central, crosses the southwest corner of the county, passing through Morgantown.<sup>54</sup> It was completed in 1906.

In 1893 the Indianapolis and Martinsville Electric Railway Company was incorporated with a capital stock of \$50,000. Nothing was done toward building, however. In 1899 the Indianapolis and Martinsville Traction Company was organized but again nothing was done. Finally, in 1901, the Indianapolis and Martinsville Rapid Transit Company was organized with a capital of \$100,000. This was later increased to \$750,000 and the road was completed to Mooresville by August 1902, and to Martinsville the following year.<sup>55</sup> It was operated for some time but after the coming of the motor bus the line was abandoned in 1935.

In 1936 the county had 674 miles of roads. Of these 150 miles were dirt of which 70 miles were ungraded. Martinsville at that time had 26 miles of street, 5 of which were paved with brick or concrete.<sup>56</sup> There are 8 state highways in the county.<sup>57</sup>

#### AGRICULTURE

Morgan county was originally covered with dense timber consisting of poplar, oak, hickory, beech, maple, and other varieties.<sup>58</sup> When this was removed the varied soils of the county became the basis of a diversified agriculture.

Nine types of soil are recognized in Morgan County. Most of them are distinct types but some are closely related in general appearance and texture. In general the soils north of the Wisconsin Glacier line are coarser in texture, have much greater depth, and are more suitable agriculturally than the soils south of that line.

<sup>53</sup> *The Indians*, 4:397, 398. Blanchard, *op. cit.*, 33.

<sup>54</sup> *History of Lawrence and Monroe Counties, Indiana* (Indianapolis, Indiana, 1914), 446-453.

<sup>55</sup> Glen A. Blackburn, "Interurban Railroads of Indiana," *Indiana Magazine of History*, September 1924.

<sup>56</sup> Indiana State Planning Board, Preliminary Survey of County Planning Problems in Indiana Counties, 1935-36 (typewritten ms. in the Indiana State Library), Morgan County section.

<sup>57</sup> *Official Indiana Highway Map*: 1940.

<sup>58</sup> Blanchard, *op. cit.*, 11.

Knox silt loam includes practically all the upland soil of that part of the county south of the Wisconsin drift. It is a light brown to ashy gray silt loam underlaid with a heavy stiff subsoil. Where the topography is not too broken it yields good crops of wheat and corn. Oats and some fruit are also grown on it. Waverly silt loam is a closely related soil. Its largest area is found in Ashland Township, east of Lewisville. It is also found in Indian Creek bottom and in the valley of White River where it has been carried down from the higher places and deposited as the result of erosion. In dry years it produces fair crops of corn, wheat, and oats, but its most successful crop is timothy.

Carrington silt loam is found principally in the "lake" region of the northwestern part of the county. It is preeminently a corn soil, producing crops which average from 50 to 80 bushels per acre. Knox sandy loam comprises the conspicuous dune-like hills skirting the valley of White River. It produces wheat and corn but is best adapted to blue grass. Wankeska sandy loam comprises the extreme northeastern part of the county. Corn and wheat are grown extensively on it but they are likely to suffer in dry weather.

Wabash loam is the typical soil of the stream valleys and is well adapted to corn. Miami clay loam, a heavy grayish yellow soil, is found in the eastern part of the county. It is especially adapted to tomato culture. Dover silt loam is confined to a small area along the western boundary of the county south of Lewisville. It is a loose, friable silt loam, light brown to reddish brown in color, and produces good crops of grass and clover. Sioux loam occurs in a long narrow strip in the White River bottom, north of Waverly. It is not of any particular value as an agricultural soil.<sup>59</sup>

The first attempt to organize the agricultural life of the county was made in 1837 when, in accordance with the provision of a legislative enactment of the previous winter, a number of Washington Township citizens met at the courthouse and organized an agricultural society. John Sims was elected president; William Sheerer, vice president; H. R. Stevens, corresponding secretary; T. F. Huff, recording secretary; and Benjamin Sweet, treasurer.

The organization soon died, but in August 1851 a second society was formed with William H. Craig, president; William

<sup>59</sup> J. B. Edmondson, "Soil Survey of Morgan County," Indiana *Geological Report*, 1911, pp. 92-109.

G. Quick, vice president; James Jackson, treasurer; and Larkin Reynolds, secretary. A fair was arranged and held northeast of Martinsville on land now a part of the city. The total receipts were \$124 of which amount the city paid \$50. Premiums to the value of \$37.50 were distributed.

For a time, it is thought, a rival fair was held at Mooresville. If so the two fairs were later consolidated. The third or fourth fair was held at Centerton but in 1855 it was again held in Martinsville. In 1856 no fair was held because of the political excitement growing out of the Presidential election of that year. In 1857 the fair was held at Centerton. On the whole steady progress seems to have been made but success was impaired by the renewal of the Mooresville fair in 1870. In 1879 the society at Martinsville bought 20 acres of land upon which it held its fair the following year. In 1882 about 500 premiums were distributed aggregating in the neighborhood of \$3,000.<sup>60</sup> These fairs did much to advance the agricultural interests of the county.

In 1935 there were 2,343 farms in the county, the average size of which was 98.4 acres. Of these, 1,290 were operated by full owners, 285 by part owners, 42 by managers, and 726 by tenants. The total value of the farms including improvements was \$9,667,218; the average value per farm, \$4,126; and the average value per acre, \$41.95.<sup>61</sup> For the 10-year period from 1927 to 1937 the county's average yield of corn and wheat per acre was 34.5 and 14.4 bushels, respectively.<sup>62</sup>

#### INDUSTRY

The first industries of Morgan County, as in all frontier communities, were simple in character and designed to satisfy the more pressing needs of the people. Raw materials obtained from the forests and farms were manufactured in the home and the finished products consumed there by the family. This type of economic organization has for the greater part disappeared in Morgan County, as elsewhere, but some of it still lingers, such as home canning, butchering, and clothes making.

With the development of community life, specialized industries appeared. Among the first of these were such in-

<sup>60</sup> Blanchard, *op. cit.*, 22-24.

<sup>61</sup> *United States Census of Agriculture: 1935* (Washington, D. C., 1937), 126.

<sup>62</sup> "Indiana Crops and Live Stock," *Bulletin No. 159* (West Lafayette, Indiana, published by U. S. Department of Agriculture, cooperating with Purdue University Agricultural Experiment Station, 1938), 8.

dustries as blacksmithing, sawmills, gristmills, meat packing, tanneries, and distilleries, and markets were sought where citizens could dispose of surplus commodities and obtain in return goods not produced in the community.

Perhaps the first mill in the county was erected on White Lick Creek near the site of Brooklyn in 1819 by Benjamin Cuthbert. The structure, built of logs, was about 18' by 18' in dimension, the stones were made of granite boulders, and the dam of brush, logs, and stones. All the settlers in the northern part of the county "went to mill" here and obtained grit, which became a part of their daily diet. Among later enterprises in the vicinity of the mill were a distillery and a country store.<sup>63</sup>

White Lick Creek was considered one of the best mill streams in the state and on it alone there were no less than five gristmills in the county. Richard Day built a mill on this creek as early as 1822.<sup>64</sup> About the same time Joseph Moon erected a sawmill near Brooklyn.<sup>65</sup> Samuel Moore, for whom Mooresville was named, built a mill about one-half mile west of that town. Later it was purchased by George Olds who operated it for sometime. Olds had formerly built and operated a mill on Sycamore Creek about 3 miles west of Center-ton. This mill was later acquired by John Albertson.<sup>66</sup> John W. Cox, who came to the county in 1823, built the first sawmill to be erected on White River, in Morgan County. It was located about one-half mile north and a little west of Martinsville. To this mill people came from far and near and while they waited their turn often fished in the river. Later a grist mill and woolen mill was operated in connection with the sawmill. Here also was the greatest boatyard in the county. Boats 100' long and 20' wide were built and launched on the river above the dam.<sup>67</sup>

On the hopes inspired by a canal, Waverly developed considerable industrial life. Of this, Cornelius Ferrec is said to have been the central figure. In 1837 he built a grist-mill there 4 or 5 stories high. This mill was one of the finest in the state and drew people for 40 miles about. Corn was ground here, the meal kiln-dried and shipped by boats to

<sup>63</sup> Blanchard, *op. cit.*, 121.

<sup>64</sup> *Ibid.*, 100; Morgan Circuit Court, Order Book, A:141.

<sup>65</sup> *Ibid.*; Major, *op. cit.*, 416.

<sup>66</sup> Order Book, A:141, 142; Blanchard, *op. cit.*, 101; Major, *op. cit.*, 416.

<sup>67</sup> Major, *op. cit.*, 418, 419.

southern markets. Samuel Moore and J. S. Kelly packed a large quantity of pork here, much of which was shipped south.<sup>68</sup>

In 1826 Alexander Worth and Company built a woolen mill and operated a tanyard and a pottery in Mooresville; Barney Ball also operated a pottery there. A cooperage shop provided containers for a large amount of pork packed in that community.<sup>69</sup>

With the coming of railroads, Morgan County shared in the specialization of industry that developed throughout the country. In 1874 there were 164 manufacturing establishments in the county. Included in these were woolen mills, grist-mills, sawmills, planing mills, sash and door factories, furniture factories, and stove foundries. These industries annually consumed about \$500,000 worth of raw materials, employed 700 hands, and produced about \$1,000,000 worth of manufactured articles.<sup>70</sup>

Since 1874 the number of industries in the county has diminished rather than increased. Martinsville has long been known for its sanitaria, having seven by 1911. To these 25,000 guests were attracted annually by the medicinal qualities of the mineral water. This brought to the city an estimated annual income of \$1,000,000. Martinsville continues to be a health resort. In 1911 the Martinsville and the Adam Brick Works, located north of Martinsville, had a combined daily output of 120,000 bricks. The Brooklyn Tile Company, which is considered one of the largest of its kind in the country, and the Brooklyn Brick Works are located in Brooklyn. The Van Camp Canning Factory furnished a market for the many products of the Morgan County Farms. The Grassy Fork Fisheries, approximately 2 miles east of Martinsville, covering 1,500 acres, is one of the largest in the country. The hatcheries employ 125 people. An average of 50 million goldfish yearly are hatched here in the 615 ponds and 316 hatching tanks.<sup>71</sup>

For the year 1929 the 46 manufacturing establishments of the county employed 732 people, paid \$748,174 in annual wages and salaries, and manufactured products to the value of \$3,856,850.<sup>72</sup> Among the products manufactured in the

<sup>68</sup> Blanchard, *op. cit.*, 135, 136. Hadley, *op. cit.*, 17.

<sup>69</sup> Hadley, *op. cit.*, 9.

<sup>70</sup> Cline and McHaffie, *op. cit.*, 140.

<sup>71</sup> Indiana Geological Report, 1911, p. 92.

<sup>72</sup> Fifteenth Census of the United States, 1930, Manufactures, 3:162.

county are lumber, canned goods, bricks, furniture, shirts and overalls, kegs and barrels, ice, ice cream, butter, cheese, flour, tile, cement blocks, vaults, urns, and monuments.<sup>73</sup>

#### SOCIAL WELFARE

An early act of the Indiana legislature provided that public charges be maintained in private homes at public expense. Two overseers of the poor were provided for each township and charged with the duty of farming out to the lowest bidder those dependent upon public charity.<sup>74</sup> Because of the loss of the early Commissioners' Record little is known of the operation of the law in Morgan County but a system which, in the language of a historian of the county, "often resulted in placing the helpless or unfortunate in the hands of animals by nature and hypocrites by practice" could not have been beneficial. The plan was continued, however, until the purchase of the first county farm on March 22, 1844. This farm was located 3 miles northeast of Martinsville. It comprised 120 acres and cost \$1,200. By 1869 the farm was considered too small. It was sold and a new one purchased at a cost of \$12,000. On this a new brick house was erected in 1871 at a cost of about \$30,000.<sup>75</sup> In 1936 there were 68 inmates at the infirmary, as it is now called.<sup>76</sup>

As a result of the Nation-wide depression, the system of relieving distress through the county poor farm and by direct relief from the township trustees was unable to care for all the needy, and in 1933 the federal, state, and county governments began to supplement those facilities with programs of work relief and social welfare payments.<sup>77</sup>

#### EDUCATION

Many of the early settlers of Morgan County were well educated, many more had only the rudiments of an education, and still others had no education at all save that which they had gained from experience. All alike had come to a place where there were at first no facilities for educating their

<sup>73</sup> Indiana State Planning Board, *op. cit.*

<sup>74</sup> Acts 1817-18 (general), ch. 14.

<sup>75</sup> Blanchard, *op. cit.*, 21, 22.

<sup>76</sup> Indiana State Planning Board, *op. cit.*

<sup>77</sup> See the essay entitled "County Department of Public Welfare."

children. Fortunately, the educational ideal was present and early steps were taken to provide schools.

The first schools of the county were subscription schools, the parents of the school community contributing to the cost in proportion to the number of children they had enrolled, the enrollment fee usually being \$1 per pupil for the term. Makeshift arrangements were made by way of housing facilities, the school sometimes being held in private homes and spare rooms of store buildings, but usually in log houses, either made for the purpose or abandoned by their original owners. In Martinsville school was held in the old log courthouse.

Log houses so used were rude structures heated with fireplaces and lighted through openings in the wall covered with greased paper. The tables and desks were split logs into which holes were bored on the round side and pegs inserted for legs. The curriculum consisted of reading, writing, and arithmetic—the so-called three R's. The terms were short, seldom extending over 3 months. The rules were strict and the punishment for their infraction usually severe, "no lickin' no larnin'" being interpreted literally and applied freely.

The first school in the county was taught, it is claimed, by Hiram T. Craig, in a small log schoolhouse located in what is now Harrison Township, 1½ miles west of Waverly.<sup>78</sup> Grant Stafford taught a school in Brown Township in the winter of 1821-22.<sup>79</sup> The first school in Martinsville may have been taught by Dr. John Morrison on the porch of a house on the west side of the square, in 1823 or 1824. Others have claimed that the distinction of teaching in the county's first school belonged to James Cunning who about the same time taught in a barn northeast of town. Another early Martinsville teacher was Amy Magee.<sup>80</sup>

Interest in education seems to have been especially keen in the vicinity of Mooresville. In 1828 the "Mooresville School Society" was organized with Willis G. Conduitt, president; Asa Bales, secretary; and D. G. Worth, W. C. Conduitt, Alexander Worth, Joel Dixon, and Asa Bales, trustees. Some-time in the early thirties a brick schoolhouse was built in Mooresville. About 1841 Ruth Hunt established a school for girls there.<sup>81</sup>

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<sup>78</sup> Cline and McHaffie, *op. cit.*, 135.

<sup>79</sup> Margaret W. Fogleman, *Early Mooresville, Centennial Souvenir* (1924).

<sup>80</sup> Blanchard, *op. cit.*, 95.

<sup>81</sup> Fogleman, *op. cit.*

The Indiana Constitution of 1816 provided that "the money which shall be paid, as an equivalent by persons exempt from militia duty, except in time of war, shall be exclusively, in equal proportions, applied to the support of county seminaries; also fines assessed for any breach of the penal laws shall be applied to said seminaries in the counties wherein they shall be assessed."<sup>82</sup> An act of the Indiana legislature of February 4, 1831 provided that when a seminary fund in any county amounted to \$400, provision might be made for the erection of a seminary building.<sup>83</sup>

In 1835 John Matthews, trustee of the seminary fund of Morgan County, reported that he had \$88.63½ belonging to that fund in his possession.<sup>84</sup> During the thirties the fund accumulated rapidly, the receipts for 1835, 1836 and 1837 being \$114.23, \$369 and \$79 respectively. By 1838 the fund amounted to more than \$2,000 and about this time work was begun on a two-story brick seminary building.<sup>85</sup>

The seminary was organized in February 1838,<sup>86</sup> and incorporated on the 17th of that month.<sup>87</sup> The first teacher was David Anderson, who was succeeded by Elijah and Hannah Parks. Gradually the institution lost the character of a county seminary and assumed the role of a Martinsville school. In 1854 the building was sold to Andrew Finley for \$1,100 in accordance with a law of 1852. In 1856 it was transformed into a woolen factory. About 1864 it was razed.<sup>88</sup>

By the middle of the 19th century the demand for free schools had become insistent in the state, and the Indiana Constitution of 1851 made it mandatory that the legislature "provide by law, for a general and uniform system of common schools, wherein tuition shall be without charge and equally open to all."<sup>89</sup> Legislation enacted under this provision

<sup>82</sup> "Constitution of the State of Indiana, 1816" (hereinafter cited as Const. 1816) art. 9, sec. 1, in the *Revised Statutes of the State of Indiana, 1843* (Indianapolis, Indiana, 1843), 38-64 (volume hereinafter cited as Rev. Stat. 1843).

<sup>83</sup> Rev. Laws 1831, ch. 90, secs. 11, 17.

<sup>84</sup> Blanchard, *op. cit.*, 20.

<sup>85</sup> *Ibid.*

<sup>86</sup> Walter Jackson Wakefield "County Seminaries in Indiana," *Indiana Magazine of History*,

June 1915.

<sup>87</sup> Acts 1837-38 (local), ch. 51.

<sup>88</sup> Blanchard, *op. cit.*, 20, 21.

<sup>89</sup> "Constitution of the State of Indiana, 1851" (hereinafter cited as Const. 1851), art. 8, sec. 1, in Harrison Burns, editor, *Annotated Indiana Statutes Containing Acts of a General and Public Nature in Force September 1, 1933* (Indianapolis, Indiana, 1933—), vol. 1, pp. 1-122 (series herein-after cited as Burns).

created educational opportunity for all, but not until 1897 was its acceptance made compulsory;<sup>90</sup> thus promoted, the schools of the county made rapid progress. During the school year 1905-06 there were 3,498 pupils enrolled in the township schools, 419 in the town schools, and 1,066 in the city schools, a total of 4,983.<sup>91</sup>

For the year 1938-39 there were 11 one-room schools in the county, 2 two-room schools, 2 three-room schools, 2 four-room schools, 4 consolidated township high schools, and 2 city schools (Martinsville and Mooresville). During the same year there were 3,588 pupils enrolled in the schools of the county and 151 teachers employed.<sup>92</sup>

#### JOURNALISM

Morgan County's first newspaper was a small folio published at Martinsville by James Richards early in the 1840's. It was printed on a small wooden press on paper obtained from the local stores. After an existence of about a year it was abandoned. The second paper of the county, the *Mooresville Chronicle*, was established by Thomas L. Worth at Mooresville in 1846. The subscription price was \$2 per year with a 10 percent deduction for cash. In 1851 it was moved to Martinsville and the name changed to *Morgan County Gazette*.

In 1853 the *Gazette* was purchased by Edwin W. Callis who through its columns exerted a powerful influence as a supporter of the Lincoln administration during the Civil War. Sometime after the war it became an independent paper and still later a Democrat paper.

In 1856 P. S. Parks and C. S. Hilborne established at Martinsville the *Morgan County Monitor*, a Democrat paper. During the early part of the Civil War it was called the *Clarion*; in 1863, the name was changed to *Morgan County Express*. After a rather stormy existence it was discontinued in 1867.

In 1867, after the *Gazette* had changed to a Democrat paper, the sum of \$800 was raised by subscription for the purpose of establishing a Republican paper in the county. The result was the *Martinsville Republican*, published by W. H. Eagle and edited by J. G. Bain. Later Bain, in partnership with Henry Smack, purchased the paper.

<sup>90</sup> Acts 1897, ch. 165, sec. 1.

<sup>91</sup> *Twenty-Third Biennial Report of the State Superintendent of Public Instruction for the School Year Ending July 31, 1905 and July 31, 1906.*

<sup>92</sup> *Indiana School Directory, 1938-39* (Indianapolis, Indiana, 1938), 238-240.

About 1869 or 1870 Lang and Weil established a paper at Mooresville called the *Vindicator* which was discontinued after three issues, as was said, "from lack of breath." The press was purchased by E. H. Dorland and Benjamin Dakin who published a paper called the *Enterprise*, for about 1½ years, from the same office. Later under the editorship of James H. Burks the name of the paper was changed to the *Herald*. About 1880, the paper in the meantime having changed hands, it became the *Monitor*.

In 1878 William D. and John Ever began the publication of the *Cyclone* in Morgantown. After a year or two it was removed to Brown County but sometime later the press was returned to Morgantown by George Allison who began the publication of a paper called the *Sunshine* which continued until 1883.<sup>93</sup>

At the present time (1941) three weekly newspapers and one daily are published in Morgan County: the *Daily Reporter*, the *Republican*, and the *Democrat* (all of Martinsville), and the *Mooresville Times*.

#### RELIGION

Most of the early settlers of Morgan County, as elsewhere in pioneer communities, believed in a personal relationship between God and the individual. They were thus fortified to endure the hardships of the wilderness. They sang hymns, prayed, and read the Bible, alone or assembled in small groups in the open or in private homes.

Institutionalized religion was first brought to the county by Methodist circuit riders in the early 1820's. In 1823 two or three Methodist congregations were organized in Brown Township. One of these, the White Lick Methodist Episcopal Church, was the most prominent religious society in the county for several years.<sup>94</sup>

In 1827 a Methodist congregation was organized in Martinsville. Its first place of meeting was the old log courthouse. Later the congregation met at the home of Fred Gardner. In the year 1848 or 1849 a church was built. This frame building was used until 1873, when a brick church was erected at a cost of nearly \$17,000. In 1884 it had a membership of about 300.<sup>95</sup>

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<sup>93</sup> Blanchard, *op. cit.*, 33-36.

<sup>94</sup> Major, *op. cit.*, 334.

<sup>95</sup> Blanchard, *op. cit.*, 97, 98.

Quite early in the history of the county a Quaker or Friends' Community was organized in Brown Township. This was the nucleus out of which grew the yearly meetings at Plainfield, Indiana, important to Quakerdom.<sup>96</sup>

The so-called Two-seed Baptists erected a church in Martinsville at an early date. The Newlight Baptists were also on the ground but left no permanent organization.<sup>97</sup> In 1857 a Baptist Church was begun in Martinsville. For some reason it was not completed. It was later used as a schoolhouse and still later was purchased by the Catholics and used as a church.<sup>98</sup>

The Presbyterians built a church in Martinsville in 1842 and a Christian Church was erected there in 1846.<sup>99</sup>

In 1883 the Disciples of Christ purchased 40 acres of land for a park and in it established a religious center known as Bethany Park which has become quite an annual meeting place for members of the Christian Churches over the country.

#### POLITICAL TRENDS

The first presidential election in which Morgan County participated was that of 1824, but due to loss of the records by fire the results prior to the election of 1844 are unknown. In the latter year Clay and Frelinghuysen on the Whig ticket received 300 votes to 260 for the Democratic ticket represented by Polk and Dallas. In 1856, the Whig party having in the meantime disappeared, the Republican ticket had a slight advantage over the Democrat ticket, Fremont and Dayton receiving 1,570 votes to 1,528 for Buchanan and Breckenridge. Four years later Lincoln and Hamlin received 1,755 votes to 1,516 for Douglas and Johnson. In 1868 the preponderance of Republican strength was even greater, Grant and Colfax receiving 2,047 votes to 1,460 for Seymour and Blair. In 1880 the Republican plurality was 345 out of a total of 4,570 votes cast. In that year the county cast 183 votes for General Weaver, the Greenback candidate.<sup>100</sup> The county continued to be Republican, with the exception of the election of 1932, when a Democrat majority was returned.

<sup>96</sup> Major, *op. cit.*, 335.

<sup>97</sup> *Ibid.*, 334.

<sup>98</sup> Blanchard, *op. cit.*, 99.

<sup>99</sup> *Ibid.*, 98.

<sup>100</sup> *Ibid.*, 25-32.

## RECREATION

The recreation of early Morgan County has been given only casual treatment by her historians. This may be due to the fact that there was such a mixture of work and pleasure that the latter was taken as a matter of course. Certainly the early amusements of the county were not very different from those of other pioneer communities of the state. There were log-rollings, husking bees, quilting bees, and many other cooperative undertakings which not only accomplished useful work but furnished occasion for social enjoyment. In the singing schools and spelling bees pleasure was combined with the learning process. Everyone attended weddings as a matter of course, an invitation not being required. Following the wedding there was feasting and usually dancing. When the newly married couple moved into the new home there was a "house warming."

Singing schools were held either at the district school or the church. Singing matches were sometimes arranged between rival schools in the community. Spelling matches were conducted by "choosing up" and each side trying to spell the other down.

Several religious camp meetings were usually held in every community each year. To these the people flocked and sometimes they were scenes of the wildest excitement.<sup>101</sup>

Today much of that spontaneous amusement that formerly prevailed in the county has given way to commercialized entertainment in which the individual pays to see others perform, the participants regarding their performance as work. The recreational facilities of the county are fairly adequate. Patton Park, located in Jefferson Township and containing about 160 acres, is owned and maintained by the Patton Park Association. It has an open pavilion and a lake. Mooresville has the only city park in the county. This contains about 5 or 6 acres and has a pavilion or shelter house, picnic grounds, and a baseball diamond. There are two other privately owned parks in the county, one at Blue Bluffs and one at Bethany Park. The former has boating and swimming facilities on White River. It also has cottages which are rented for summer outings. Bethany Park, located south of Brooklyn, has a small lake and several cottages. There is a privately owned golf

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<sup>101</sup> Charles Roll, *Indiana, One Hundred Years of American Development* (Chicago and New York, 1931), 1:535-537.

course located about 3 miles north of Martinsville. The Morgan-Monroe State Forest of 13,648 acres lies partly in the county,<sup>102</sup> and this state owned tract includes artificial lakes, shelter houses, a small zoo, and reforested areas. Fishing and hunting are two of the principal recreations of Morgan County. Many sportsmen from central Indiana line the streams and roam the woods during week ends. Fox hunting is also an attraction of wide interest.

#### POPULATION

The estimated population of Morgan County in 1820 was 250. In 1830 this had increased to 5,593. During the next decade the population of the county practically doubled, the census of 1840 returning 10,741. In 1850 there were 14,576 people living within the county and in 1860 there were 16,-110.<sup>103</sup> From 1860 to 1930 the population grew more slowly, 1910 being the peak with 21,182 inhabitants. In 1930 it was 19,424. Of this number, 19,416 were white and 8 were negroes. Of the white people, 19,332 were native-born and 84 were foreign-born. Of the native whites, 18,882 were of native parentage, 215 of foreign parentage, and 205 of mixed parentage. The rural population numbered 14,462 and the urban population 4,962.<sup>104</sup>

## 2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

#### LEGAL STATUS OF THE COUNTY

The county in Indiana is an involuntary corporation, sometimes called a quasi-corporation, organized as a political subdivision of the state, solely for governmental purposes. It is a "municipal corporation" and a "municipality" within the meaning of several statutes using those terms. It is an instrumentality of government, exercising the powers delegated by the state and acting for the state. County officers are agents of the state. The authority of the county and its

<sup>102</sup> Indiana State Planning Board, *op. cit.*

<sup>103</sup> Blanchard, *op. et.,* 32.

<sup>104</sup> U. S. Bureau of the Census, *Fifteenth Census of the United States, 1930, Population* (Washington, D. C., 1931), 3: pt. 1:706.

officers and agents is limited to that expressly or impliedly conferred on them by the Indiana General Assembly. Except as limited by the state constitution, the general assembly has full power to create, modify, and abolish counties, and to prescribe their powers, governmental organization, and liabilities.<sup>1</sup>

Before the adoption of the Constitution of 1851, the legislature had full power to enact local laws concerning county matters, and many such laws were enacted; but since 1851 there have been constitutional provisions prohibiting the enactment of local laws concerning several specified subjects affecting county organization and functions.<sup>2</sup> The general assembly often passes laws applicable to counties and cities having a specified population and to counties containing cities of a specified population. Such laws are sometimes upheld<sup>3</sup> and sometimes held void as being in conflict with

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<sup>1</sup> Gavin v. Board of County Comrs. (1885), *Reports of Cases Argued and Determined in the Supreme Court of Judicature of the State of Indiana* (Indianapolis, 1852-), 104:201 (series hereinafter cited as Ind.), *North Eastern Reporter: Cases Argued and Determined in the Courts of Indiana, Illinois, Ohio, New York, Massachusetts* (St. Paul, Minn., 1885-), 3:846 (series hereinafter cited as N. E.); *State ex rel. Workman v. Goldthait* (1909), 172 Ind. 210, 87 N. E. 133; *Applegate v. Pettijohn* (1933), 205 Ind. 122, 125, 185 N. E. 911; *McDermott v. Board of County Comrs.* (1915), *Reports of Cases Argued and Determined in the Appellate Court of the State of Indiana* (Indianapolis, 1891-), 60:209 (series hereinafter cited as Ind. App.), 110 N. E. 237; *Buck v. Indiana Constr. Co.* (1923), 79 Ind. App. 329, 138 N. E. 356.

"Municipal corporation." Acts 1933, ch. 237, sec. 2 (repealed by Acts 1937, ch. 119, sec. 11). Acts 1929; Burns 60-1102; Baldwin 11392-2. Acts 1933; Burns 61-906; Baldwin 13853-6. Acts 1937; Burns, 1939 suppl., 61-526, 61-622(d), 64-303; Baldwin, 1937 suppl., 12849-2, 13844-43(d), 15897-2.

"Municipality." Acts 1909; Burns 60-219; Baldwin 13870. Acts 1917; Burns 60-229; Baldwin 13880. Acts 1923; Burns 60-236; Baldwin 14091. Acts 1937; Burns, 1939 suppl., 61-509(a); Baldwin, 1937 suppl., 12489 4(a).

"Offices created by the legislature can be abolished by the legislature. The power that creates can destroy. The creator is greater than the creature. The term of an office may be shortened, the duties of the office increased, and the compensation lessened, by the legislative will." *Rogers v. Calumet National Bank* (1938), 213 Ind. 576, 585, 12 N. E. (2d) 261.

<sup>2</sup> Const. 1851, art. 4, secs. 22, 23.

<sup>3</sup> *State ex rel. Hargrave v. Reitz* (1878), 62 Ind. 159; *Campbell v. Indianapolis* (1900), 155 Ind. 186, 57 N. E. 920; *Bullock v. Robison* (1911), 176 Ind. 198, 93 N. E. 998; *Wayne Twp. v. Brown* (1933), 205 Ind. 437, 186 N. E. 841; *Meara v. Brindley* (1935), 207 Ind. 657, 194 N. E. 351; *Groves v. Board of County Comrs.* (1926), 209 Ind. 371, 199 N. E. 137; *Crowe v. Board of County Comrs.* (1936), 210 Ind. 404, 3 N. E. (2d) 76; *Board of County Comrs. v. Crowe* (1938), 214 Ind. 446, 14 N. E. (2d) 907.

these constitutional provisions.<sup>4</sup> Several laws authorize the appointment of county officials but do not require such appointment.

There are 92 counties in Indiana. Knox County, the oldest, was created by proclamation of the Governor of the Northwest Territory on June 20, 1790.<sup>5</sup> The counties of Clark<sup>6</sup> and Dearborn<sup>7</sup> were created on February 3, 1801 and March 7, 1803, respectively, by proclamation of the Governor of Indiana Territory. The counties of Franklin,<sup>8</sup> Gibson,<sup>9</sup> Harrison,<sup>10</sup> Jackson,<sup>11</sup> Jefferson,<sup>12</sup> Orange,<sup>13</sup> Perry,<sup>14</sup> Posey,<sup>15</sup> Switzerland,<sup>16</sup> Warrick,<sup>17</sup> Washington,<sup>18</sup> and Wayne<sup>19</sup> were created by special acts of the General Assembly of Indiana Territory. These 15 counties are all mentioned in the Constitution of 1816.<sup>20</sup> The remaining 77 counties were created by special acts of the General Assembly of the State of Indiana.

The Constitution of 1816 provided: "The General Assembly, when they lay off any new county, shall not reduce the old county, or counties, from which the same shall be taken to a less content than four hundred square miles."<sup>21</sup> The

<sup>4</sup> Campbell v. Indianapolis (1900), 155 Ind. 186, 57 N. E. 920; Rushville v. Hayes (1904), 162 Ind. 193, 70 N. E. 134; Bumb v. Evansville (1907), 168 Ind. 272, 80 N. E. 625; Kraus v. Lehman (1908), 170 Ind. 408, 83 N. E. 714; Bullock v. Robison (1911), 176 Ind. 198, 93 N. E. 998; Boberg v. Harlem (1924), 194 Ind. 310, 142 N. E. 705; Heffelfinger v. Ft. Wayne (1925), 196 Ind. 689, 149 N. E. 555; Heckler v. Conter (1933), 206 Ind. 376, 187 N. E. 878; Crowe v. Board of County Comrs. (1936), 210 Ind. 404, 3 N. E. (2d) 76.

<sup>5</sup> William Henery Smith, editor, *The St. Clair Papers* (Cincinnati, 1882), 2:166 note. George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County* (1933), 21, 514.

<sup>6</sup> Pence and Armstrong, *op. cit.*, 256.

<sup>7</sup> *Ibid.*, 310.

<sup>8</sup> Acts 1810, ch. 6.

<sup>9</sup> Acts 1813, ch. 23.

<sup>10</sup> Acts 1808, ch. 1.

<sup>11</sup> Acts 1815, ch. 1.

<sup>12</sup> Acts 1810, ch. 2.

<sup>13</sup> Acts 1815, ch. 12.

<sup>14</sup> Acts 1814, ch. 7.

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*, ch. 9.

<sup>17</sup> Acts 1813, ch. 23.

<sup>18</sup> Acts 1813-14, ch. 10.

<sup>19</sup> Acts 1810, ch. 1.

<sup>20</sup> Const. 1816, art. 12, sec. 9.

<sup>21</sup> *Ibid.*, art. 11, sec. 12.

Constitution of 1816 further provided that the legislature, "at the time they lay off a new county," should provide certain funds for a public library.<sup>22</sup> The present constitution provides: "No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced."<sup>23</sup> It further provides: The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the State may, from time to time, be divided."<sup>24</sup> A new county may be created out of the counties of Perry and Spencer if approved by election of the voters in those counties in such manner as may be prescribed by law;<sup>25</sup> but no such new county has been created.

The legislature passed a general law in 1861 providing for the creation of new counties by election in the affected old counties after petition has been presented to the board of commissioners in such counties.<sup>26</sup> No new counties have been created since the enactment of this law.

#### STRUCTUAL DEVELOPMENT OF COUNTY GOVERNMENT

From the organization of Morgan County in 1822,<sup>27</sup> the following officers, boards, and courts (arranged alphabetically in three groups) have existed or been legally available in the county:

##### OFFICERS

Appraiser (1841 to 1872)<sup>28</sup>

Appraiser of state lands (permissive since 1889)<sup>29</sup>

Auditor (1841 to date)<sup>30</sup>

Bailiff (permissive since 1852)<sup>31</sup>

Clerk of the circuit court (1822 to date)<sup>32</sup>

<sup>22</sup> *Ibid.*, art. 9, sec. 5.

<sup>23</sup> Const. 1851, art. 15, sec. 7.

<sup>24</sup> *Ibid.*, art. 4, sec. 2.

<sup>25</sup> *Ibid.*, schedule, par. 15.

<sup>26</sup> Acts 1861; Burns 26-301 to 26-310; Baldwin 5044 to 5053.

<sup>27</sup> Acts 1821-22, ch. 24, sec. 1.

<sup>28</sup> See the essay entitled "County Assessor."

<sup>29</sup> See the essay entitled "Board of Commissioners,"

<sup>30</sup> See the essay entitled "Auditor."

<sup>31</sup> See the essay entitled "Circuit Court."

<sup>32</sup> See the essay entitled "Clerk of the Circuit Court."

Coroner (1822 to date)<sup>33</sup>  
 County agent (1822 to 1852)<sup>34</sup>  
 County agricultural agent (permissive 1913 to 1937, mandatory since 1937)<sup>35</sup>  
 County assessor (1822 to 1852, 1872 to 1875, 1891 to date)<sup>36</sup>  
 County attendance officer (permissive since 1913)<sup>37</sup>  
 County attorney (permissive since 1899)<sup>38</sup>  
 County director of public welfare (1936 to date)<sup>39</sup>  
 County engineer (permissive since 1852)<sup>40</sup>  
 County health commissioner (1909 to 1938)<sup>41</sup>  
 County health officer (1881 to 1909, 1938 to date)<sup>42</sup>  
 County highway superintendent (1913 to 1933)<sup>43</sup>  
 County highway supervisor (1933 to date)<sup>44</sup>  
 County inspector of weights and measures (permissive since 1911)<sup>45</sup>  
 County physician (permissive since 1852)<sup>46</sup>  
 County school commissioner (1829 to 1849)<sup>47</sup>  
 County school examiner (1838 to 1873)<sup>48</sup>  
 County superintendent (1873 to 1927)<sup>49</sup>  
 County superintendent of schools (1927 to date)<sup>50</sup>  
 County veterinarian (permissive since 1915)<sup>51</sup>  
 Court page (permissive since 1822)<sup>52</sup>

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<sup>33</sup> See the essay entitled "Coroner."

<sup>34</sup> See the essay entitled "Auditor."

<sup>35</sup> See the essay entitled "County Agricultural Agent."

<sup>36</sup> See the essay entitled "County Assessor."

<sup>37</sup> See the essays entitled "County Board of Education" and "County Superintendent of Schools."

<sup>38</sup> See the essay entitled "Board of Commissioners."

<sup>39</sup> See the essay entitled "County Department of Public Welfare."

<sup>40</sup> See the essays entitled "Board of Commissioners" and "Surveyor."

<sup>41</sup> See the essay entitled "County Health Officer."

<sup>42</sup> *Ibid.*

<sup>43</sup> See the essay entitled "County Highway Supervisor."

<sup>44</sup> *Ibid.*

<sup>45</sup> Acts 1911, ch. 263. Acts 1913, ch. 161. Acts 1925; Burns 69-104, 69-106 to 69-109; Baldwin 16335, 16337 to 16340.

<sup>46</sup> See the essay entitled "Board of Commissioners"

<sup>47</sup> See the essay entitled "County School Fund Board."

<sup>48</sup> See the essay entitled "County Superintendent of Schools."

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*

<sup>51</sup> See the essay entitled "Board of Commissioners."

<sup>52</sup> See the essay entitled "Circuit Court."

Court reporter (permissive since 1881)<sup>53</sup>  
District attorney (1853 to 1873)<sup>54</sup>  
District road supervisors (1822 to 1879)<sup>55</sup>  
Election inspectors (1822 to date)<sup>56</sup>  
Election judges (1822 to date)<sup>57</sup>  
Election sheriffs (1929 to date)<sup>58</sup>  
Home demonstration agent (permissive since 1914)<sup>59</sup>  
Inspector of beef, flour, pork, salt, and hay (permissive since 1822)<sup>60</sup>  
Jury commissioners (1881 to date)<sup>61</sup>  
Lister (1822 to 1841)<sup>62</sup>  
Poll clerks (1852 to date)<sup>63</sup>  
Probation officer (permissive since 1903)<sup>64</sup>  
Prosecuting attorney (1822 to date)<sup>65</sup>  
Public health nurse (permissive since 1935)<sup>66</sup>  
Recorder (1822 to date)<sup>67</sup>  
Registration clerks (1911 to 1917)<sup>68</sup>  
Registration inspector (1911 to 1917)<sup>69</sup>  
Registration officer 1889 to 1892, 1938 to date)<sup>70</sup>  
Sheriff (1822 to date)<sup>71</sup>  
Surveyor (1822 to date)<sup>72</sup>  
Tax collector 1824 to 1841)<sup>73</sup>  
Tax ferrets (permissive since 1905)<sup>74</sup>

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<sup>53</sup> *Ibid.*

<sup>54</sup> See the essay entitled "Prosecuting Attorney."

<sup>55</sup> See the essay entitled "County Highway Supervisor."

<sup>56</sup> See the essay entitled "County Board of Election Commissioners."

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*

<sup>59</sup> See the essay entitled "County Agricultural Agent."

<sup>60</sup> See the essay entitled "County Health Officer."

<sup>61</sup> See the essay entitled "Circuit Court."

<sup>62</sup> See the essay entitled "County Assessor."

<sup>63</sup> See the essay entitled "County Board of Election Commissioners."

<sup>64</sup> See the essay entitled "Circuit Court."

<sup>65</sup> See the essay entitled "Prosecuting Attorney."

<sup>66</sup> See the essay entitled "Public Health Nurse."

<sup>67</sup> See the essay entitled "Recorder."

<sup>68</sup> See the essay entitled "Registration Officer."

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> See the essay entitled "Sheriff."

<sup>72</sup> See the essay entitled "Surveyor."

<sup>73</sup> See the essay entitled "Treasurer."

<sup>74</sup> See the essay entitled "Board of Commissioners."

Tobacco inspector (permissive since 1822)<sup>75</sup>  
 Treasurer (1822 to date)<sup>76</sup>  
 Truant officer (permissive 1897 to 1913)<sup>77</sup>  
 Trustee of public seminary (1822 to 1853)<sup>78</sup>  
 Trustees of school sections (1822 to 1829)<sup>79</sup>

## BOARDS

Board of children's guardians (1901 to 1936)<sup>80</sup>  
 Board of commissioners (1822 to 1824, 1828 to date)<sup>81</sup>  
 Board of county charities and correction (1899 to 1936)<sup>82</sup>  
 Board of equalization (1824 to 1890)<sup>83</sup>  
 Board of finance (1907 to date)<sup>84</sup>  
 Board of justices (1824 to 1828)<sup>85</sup>  
 Board of library trustees (permissive since 1852)<sup>86</sup>  
 Board of primary election commissioners (1907 to date)<sup>87</sup>  
 Board of registration commissioners (1917 to 1919)<sup>88</sup>  
 Board of turnpike directors (1879 to 1913)<sup>89</sup>  
 Commission of public records (1939 to date)<sup>90</sup>  
 County board of canvassers (1843 to date)<sup>91</sup>  
 County board of education (1873 to date)<sup>92</sup>  
 County board of election commissioners (1889 to date)<sup>93</sup>  
 County board of health (1881 to 1909)<sup>94</sup>

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<sup>75</sup> See the essay entitled "County Health Officer."

<sup>76</sup> See the essay entitled "Treasurer."

<sup>77</sup> See the essay entitled "County Board of Education."

<sup>78</sup> See the essay entitled "County School Fund Board."

<sup>79</sup> *Ibid.*

<sup>80</sup> See the essay entitled "County Department of Public Welfare."

<sup>81</sup> See the essay entitled "Board of Commissioners."

<sup>82</sup> See the essay entitled "County Department of Public Welfare."

<sup>83</sup> See the essay entitled "County Board of Review."

<sup>84</sup> See the essay entitled "Board of Finance."

<sup>85</sup> See the essay entitled "Board of Commissioners."

<sup>86</sup> *The Revised Statutes of the State of Indiana, 1852* (Indianapolis, 1852), vol. 1 (series hereafter cited as Rev. Stat. 1852); Burns 41-503; Baldwin 10321 note. Acts 1861; Burns 41-507; Baldwin 10321 note. *Traylor v. Dykins* (1883), 91 Ind. 229.

<sup>87</sup> See the essay entitled "Board of Primary Election Commissioners."

<sup>88</sup> See the essay entitled "Registration Officer."

<sup>89</sup> See the essays entitled "Board of Commissioners," and "County Highway Supervisor."

<sup>90</sup> See the essay entitled "Commission of Public Records."

<sup>91</sup> See the essay entitled "County Board of Canvassers."

<sup>92</sup> See the essay entitled "County Board of Education."

<sup>93</sup> See the essay entitled "County Board of Election Commissioners."

<sup>94</sup> See the essay entitled "County Health Officer."

## GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM 31

County board of public welfare (1936 to date)<sup>95</sup>  
County board of review (1891 to date)<sup>96</sup>  
County board of tax adjustment (1932 to date)<sup>97</sup>  
County council (1899 to date)<sup>98</sup>  
County hospital governing board (permissive since 1903)<sup>99</sup>  
County department of public welfare (1936 to date)<sup>100</sup>  
County planning commission (permissive since 1935)<sup>101</sup>  
County public library board (permissive since 1917)<sup>102</sup>  
County school fund board (1935 to date)<sup>103</sup>  
Precinct board of election (1852 to date)<sup>104</sup>  
Precinct registration board (1911 to 1917, 1919 to 1927)<sup>105</sup>  
Township board of registry (1867 to 1869)<sup>106</sup>

### COURTS

Circuit court (1822 to date)<sup>107</sup>  
Court of common pleas (1853 to 1873)<sup>108</sup>  
Court of conciliation (1853 to 1865)<sup>109</sup>  
Magistrates court (permissive since 1939)<sup>110</sup>  
Probate court (1829 to 1835)<sup>111</sup>

In the early days of the county few public officials were needed. A court was needed to try civil and criminal cases and to administer estates of decedents. Criminal cases constituted a large majority of the court's business. The sheriff preserved order generally, took part in conducting elections, collected taxes until 1824, and executed the pro-

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<sup>95</sup> See the essay entitled "County Department of Public Welfare."

<sup>96</sup> See the essay entitled "County Board of Review."

<sup>97</sup> See the essay entitled "County Board of Tax Adjustment."

<sup>98</sup> See the essay entitled "County Council."

<sup>99</sup> Acts 1903, 1939; Burns, 1939 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

<sup>100</sup> See the essay entitled "County Department of Public Welfare."

<sup>101</sup> Acts 1935; Burns, 1939 suppl., 26-2301; Baldwin, 1935 suppl., 5205-1.

<sup>102</sup> Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510; Baldwin, 1939 suppl., 10321.

<sup>103</sup> See the essay entitled "County School Fund Board."

<sup>104</sup> See the essay entitled "County Board of Election Commissioners."

<sup>105</sup> See the essay entitled "Registration Officer."

<sup>106</sup> *Ibid.*

<sup>107</sup> See the essay entitled "Circuit Court."

<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*

<sup>110</sup> Acts 1939, ch. 164. No magistrates have been appointed in Morgan County under authority of this act.

<sup>111</sup> See the essay entitled "Circuit Court."

cess of the court. The clerk of the circuit court acted as the ministerial officer of the court, served as clerk of the board doing county business, took part in elections, county finance, and taxation, and was in general a "county clerk"—a name by which he is often called now. The duties of the coroner, prosecuting attorney, recorder, surveyor, and treasurer were similar to their present duties except that taxes were collected by a county tax collector instead of the treasurer from 1824 until 1841. County business was transacted by the board of commissioners (composed of three county commissioners) from 1822 to 1824, and 1828 to 1899, and by the board of justices (composed of all the justices of the peace in the county) from 1824 to 1828, and by the board of commissioners (composed of three county commissioners) and the county council (composed of seven councilmen) since 1899. The board doing county business had charge of the acquisition, use, and disposition of county property, constructed public buildings, levied taxes, issued licenses, established and constructed roads and bridges, allowed claims against the county, employed several minor public officials, and provided for poor relief. As a result of increased property valuations and transfers, broadening of the scope of commercial enterprises and transactions, a constant growth in population, and improvements in transportation facilities, taxation and county finance gradually grew from a simple form to a complex form requiring additional public officials. New courts were created and abolished from time to time. The office of auditor (the financial agent of the county) was created in 1841 to take over many duties of the clerk of the circuit court. The first tax law for the support of schools was passed in 1849. Since the adoption of the Constitution of 1851 the public school facilities have steadily improved. In 1899 the "County Reform Law" was enacted, transferring to the newly created county council many duties concerning taxation and finance previously performed by the board of commissioners. In recent years public health service and public welfare assistance have become important functions of the county and its officials.

#### GENERAL ADMINISTRATION

The general administrative control of county matters is vested in the board of commissioners and the county council.<sup>112</sup>

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<sup>112</sup> Many duties of these boards are discussed specifically under appropriate headings of this essay. See also the essays entitled "Board of Commissioners" and "County Council."

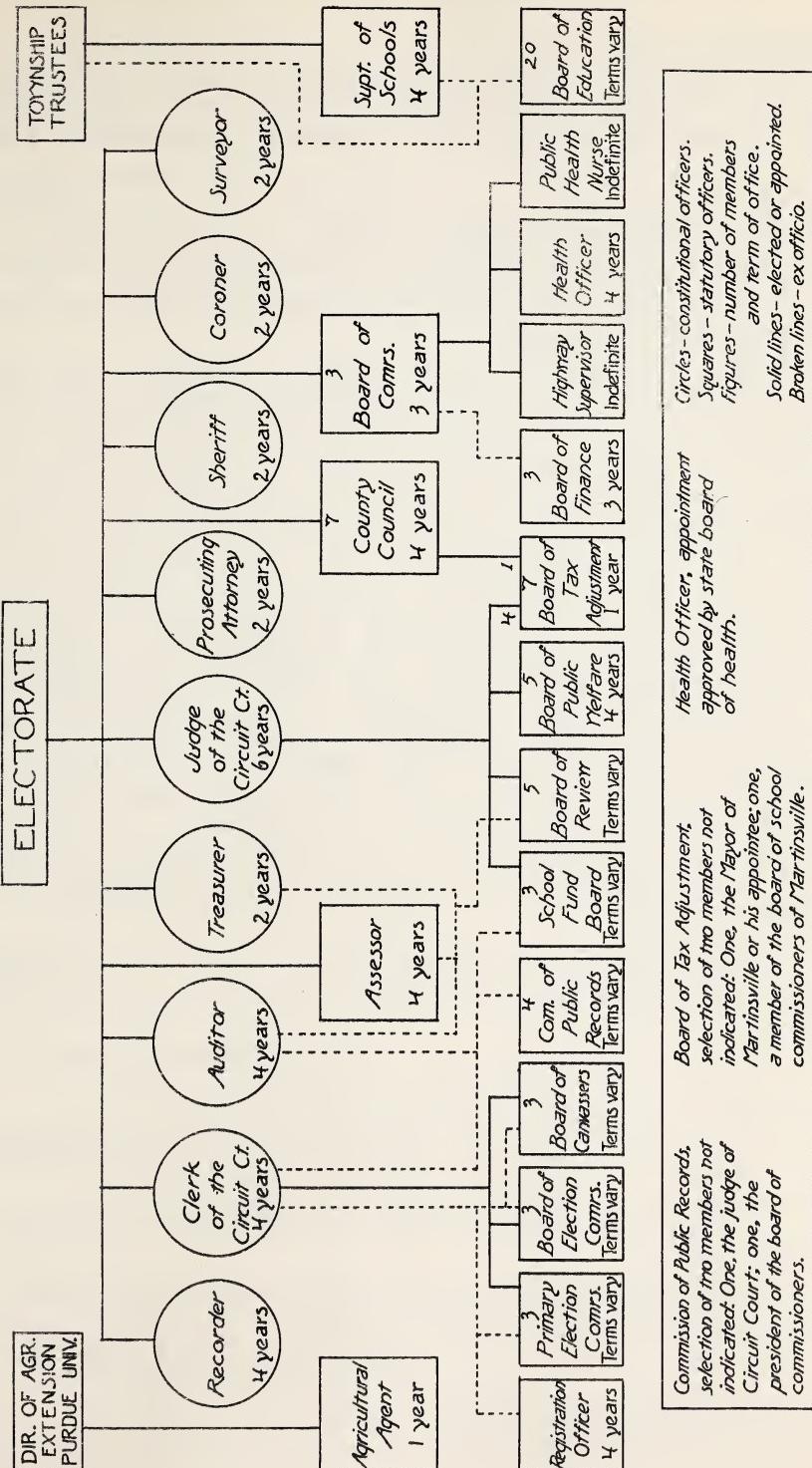


CHART OF MORGAN COUNTY GOVERNMENTAL ORGANIZATION, 1941

## CONTRACTS

The board of commissioners, as the general governing body of the county, is the agency entrusted with the making of contracts for the purchase of materials and supplies for all county offices, and for the construction of county buildings and other public improvements.<sup>113</sup> The board cannot bind the county by any contract which is beyond the scope of its powers.<sup>114</sup> While contracts made by the board are ordinarily in writing, the board may, in certain cases, bind the county by oral contracts.<sup>115</sup>

Though the statutes prescribing the methods of letting contracts vary in detail, their general features are fairly uniform. The board is usually required to prepare specifications of commodities to be purchased or work to be performed, together with plans, drawings or models if necessary or desirable, and to place these on file in the auditor's office for public inspection. Notice is then given by publication in newspapers of general circulation that the specifications are on file for examination and that sealed bids will be received up to a certain date. The board, after examination of the bids submitted, is required to award the contract to the "lowest responsible bidder," or, in some instances, the "lowest and best bidder."<sup>116</sup> The right is usually reserved to the board, however, to reject any and all bids, if they are unsatisfactory, and re-advertise for new bids. Contracts cannot be made unless money has previously been appropriated by the county council for the particular purpose involved.<sup>117</sup>

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<sup>113</sup> Acts 1899, 1903, 1933; Burns 26-536, 26-537; Baldwin 5401, 5402. Acts 1907; Burns 26-2001 to 26-2009; Baldwin 5100 to 5108. Acts 1913, 1929, 1933; Burns 53-101 to 53-106; Baldwin 14079 to 14083.

Use of prison-made goods. *Opinions of the Attorney General of Indiana, 1939* (Indianapolis, 1940), 98.

<sup>114</sup> *Hight v. Board of County Comrs.* (1879), 68 Ind. 575, 577; *Driftwood Valley Turnpike Co. v. Board of County Comrs.* (1880), 72 Ind. 226; *Board of County Comrs. v. Bradford* (1880), 72 Ind. 455.

<sup>115</sup> *McCabe v. Board of County Comrs.* (1874), 46 Ind. 380; *Board of County Comrs. v. Ritter* (1883), 90 Ind. 362.

<sup>116</sup> The courts have held that provisions of this nature vest some discretion in the board in determining the bidder to whom the contract shall be awarded. *Ness v. Board of County Comrs.* (1912), 178 Ind. 221, 98 N. E. 33; *Eigenmann v. Board of County Comrs.* (1913), 53 Ind. App. 1, 101 N. E. 38.

<sup>117</sup> Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391.

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As a general rule, the time for performance of a contract may extend beyond the official terms of the county commissioners, if the contract is made in good faith.<sup>118</sup> A contract employing an attorney is an exception to this rule.<sup>119</sup>

## ACTIONS

Ordinarily an action for or against the county is brought by or against the board of commissioners.<sup>120</sup> An action to recover money from the county cannot be maintained until a claim therefor has been presented to the board of commissioners and disallowed in whole or in part; but the complaint in such suit need not allege such presentation and disallowance, this being a matter of defense.<sup>121</sup> If the allowance of a claim is illegal, unwarranted, or unauthorized, the board of commissioners may sue to recover from the payee the amount paid. If the board does not bring such suit within 60 days after such allowance, any taxpayer may demand such suit; and if such demand is refused, the taxpayer may sue for the county.<sup>122</sup> If money is illegally paid out of the county treasury, suit to recover the same from the payee may be maintained in the name of the state on the relation of the board of commissioners or the officer making disbursement. If such suit is not brought within 80 days, any citizen or taxpayer may make written demand on the board of commissioners to bring such suit; and if the board fails or refuses to do so, he may bring suit in the name of the state on his own relation.<sup>123</sup>

The board of commissioners, as relator, may sue, in the name of the state, on official bonds to recover county funds.<sup>124</sup>

<sup>118</sup> Board of County Comrs. v. Shields (1891), 130 Ind. 6, 29 N. E. 385; Jessup v. Hinchman (1922), 77 Ind. App. 460, 133 N. E. 853.

<sup>119</sup> Board of County Comrs. v. Taylor (1890), 123 Ind. 148, 23 N. E. 752.

<sup>120</sup> 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220. Shilling v. State *ex rel.* Board of County Comrs. (1901), 158 Ind. 185, 62 N. E. 49.

<sup>121</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. Bass Foundry & Mach. Works v. Board of County Comrs. (1888), 115 Ind. 234, 17 N. E. 593; Board of County Comrs. v. Tichenor (1891), 129 Ind. 562, 29 N. E. 32; Mueller v. Board of County Comrs. (1920), 73 Ind. App. 196, 127 N. E. 15.

<sup>122</sup> Acts 1897; Burns 26-811; Baldwin 5262. Sudbury v. Board of County Comrs. (1901), 157 Ind. 446, 62 N. E. 45.

<sup>123</sup> Acts 1899; Burns 26-545; Baldwin 5410.

<sup>124</sup> Acts 1881 (Spec. Sess.); Burns 2-203; Baldwin 18. Graham v. State *ex rel.* Board of County Comrs. (1879), 66 Ind. 386; Shilling v. State *ex rel.* Board of County Comrs. (1901), 158 Ind. 185, 62 N. E. 49.

The auditor, as relator, may sue, in the name of the state, to recover money owing to the county.<sup>125</sup>

The treasurer sues in his name, as treasurer, to collect property taxes.<sup>126</sup> Suit to collect inheritance taxes is brought in the name of the county.<sup>127</sup> After a claim therefor has been disallowed by the board of commissioners, the taxpayer may sue the board of commissioners for a refund of taxes illegally assessed or collected.<sup>128</sup>

Land needed by the county for public buildings,<sup>129</sup> highways,<sup>130</sup> bridges,<sup>131</sup> culverts,<sup>132</sup> drainage, sewers,<sup>133</sup> or airports<sup>134</sup> may be acquired by the county under its power of eminent domain, on payment of the value and damages fixed by the court in condemnation proceedings.

The action of mandamus may be brought against any county officer to compel the performance of any act which the law specifically enjoins, or any duty resulting from his office or trust.<sup>135</sup> For example, mandamus lies to compel: The auditor to draw warrants on the county treasury;<sup>136</sup> the board of commissioners to take action on claims that have been properly presented,<sup>137</sup> to approve official bonds,<sup>138</sup> and to repair or rebuild bridges;<sup>139</sup> and the county council to make appropriations.<sup>140</sup>

In some instances a county officer can be enjoined from acting illegally. Some of the acts prevented by injunction

<sup>125</sup> 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Vanarsdall v. State ex rel. Watson* (1879), 65 Ind. 176; *Demarest v. Holdeman* (1901), 157 Ind. 467, 62 N. E. 17.

<sup>126</sup> Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

<sup>127</sup> Acts 1931; Burns 6-2415; Baldwin 15953.

<sup>128</sup> Acts 1919; Burns 64-2819; Baldwin 15881. Acts 1923; Burns 64-2824; Baldwin 15884. *Cody v. Board of County Comrs.* (1932), 204 Ind. 87, 183 N. E. 404; *Board of County Comrs. v. Millikan* (1934), 207 Ind. 142, 190 N. E. 185.

<sup>129</sup> Acts 1899; Burns 26-2101; Baldwin 5109.

<sup>130</sup> Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

<sup>131</sup> Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

<sup>132</sup> Acts 1920 (Spec. Sess.); Burns 14-302; Baldwin 4022.

<sup>133</sup> Acts 1881 (Spec. Sess.), 1911; Burns 3-2202; Baldwin 1091.

<sup>134</sup> *Gill v. State ex rel. Board of County Comrs.* (1880), 72 Ind. 266.

<sup>135</sup> *Board of County Comrs. v. State ex rel. Reed* (1913), 179 Ind. 644, 102 N. E. 97.

<sup>136</sup> *State ex rel. Taylor v. Board of County Comrs.* (1890), 124 Ind. 554, 25 N. E. 10.

<sup>137</sup> *State ex rel. Roundtree v. Board of County Comrs.* (1881), 80 Ind. 478.

<sup>138</sup> *Shelby County Council v. State ex rel. School City of Shelbyville* (1900), 155 Ind. 216, 57 N. E. 712.

GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM 37

are: Collection of illegal taxes;<sup>139</sup> illegal issuance of licenses;<sup>140</sup> doing of illegal acts that would increase taxation;<sup>141</sup> payment of illegal claims;<sup>142</sup> and making an illegal contract.<sup>143</sup>

The county is not liable for damages resulting from the acts or emissions of its officers, except where such liability is imposed or permitted by statute.<sup>144</sup>

Failure of the county council to make appropriation for the debt or demand constituting the subject matter of the suit does not prevent maintenance of the suit or recovery of judgment.<sup>145</sup> No judgment against a county is enforceable except out of moneys appropriated by the county council for that purpose; but, by mandamus proceedings (against the county council, board of commissioners, and auditor), the county council may be compelled to make such appropriation.<sup>146</sup>

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all suits in which the county may be interested or involved,<sup>147</sup> including suits to collect taxes and tax penalties<sup>148</sup> and suits against officers or on their bonds.<sup>149</sup> The prosecuting attorney must make a report to the board of commissioners each month showing the causes in which he appeared in person or by deputy.<sup>150</sup>

<sup>139</sup> Hobbs v. Board of County Comrs. (1885), 103 Ind. 575, 3 N. E. 263.

<sup>140</sup> Marriage license. *Sweigart v. State* (1938), 213 Ind. 157, 12 N.E. (2d) 124.

<sup>14</sup> State v. Paul, *Brown v. Board of County Commrs.* (1985), 165 Ind. 263, 54 N.E. 1961.

<sup>142</sup> Warren Agri. Joint Stock Co. v. Barr (1876), 55 Ind. 30. But see Bentley v. Board of County Comrs. (1936), 102 Ind. App. 533, 200 N. E. 499.

<sup>143</sup> Farris v. Jones (1887), 112 Ind. 498, 14 N.E. 484.

144 State ex rel. Board of County Comrs. v. Board of County Comrs. (1908), 170 Ind. 595, 608, 85 N. E. 513.

145 Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. Pike Civil Twp.  
(1902) 168 Ind. 535, 81 N.E. 489.

146 Acts 1899; Burns 26-528; Baldwin 5392

Formerly the public property of the county was subject to execution to satisfy such judgment. 2 Rev. Stat. 1852; Burns 26-803; Baldwin 5253.

147 2 Rev. Stat. 1852: Burns 49-2504: Baldwin 5460.

148 Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1937; Burns, 1939 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-1319, 64-1519, 64-2208; Baldwin 15576, 15633, 15723, 15773, 15815. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1939 suppl., 64-2628; Baldwin, 1937 suppl., 16009.

149 Acts 1917: Burns 60-227: Baldwin 13878.

150 Acts 1933: Burns 49-2695: Baldwin 7550

## RECORDATION

The recordation of deeds, mortgages, plats, and other private documents for purposes of preservation and public notice is a most important function of the county, since commerce and titles to property are directly affected thereby.<sup>151</sup> To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or approved in the manner required by law,<sup>152</sup> and the intangible tax thereon (if any) must be paid.<sup>153</sup> No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.<sup>154</sup>

The recorder and the clerk of the circuit court are the recording officers. Lists of documents which may be recorded by them are included in the essays entitled "Recorder" and "Clerk of the Circuit Court."

Indiana has no system of registration of land titles. A bill to establish the "Torrens System" of registration of land titles was introduced in the 1939 session of the general assembly but was defeated.

Indiana has a system of registering titles to motor vehicles (law administered by the state bureau of motor vehicles),<sup>155</sup> but has no system of registering titles to other personal property.

## JUDICIARY

Morgan Circuit Court has been in active existence since 1822. Morgan County alone has constituted the 15th judicial circuit since August 1, 1911. Before then the county belonged

<sup>151</sup> Acts 1935; Burns, 1939 suppl., 51-504; Baldwin, 1935 suppl., 13227-4. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Acts 1897; Burns 56-120. Acts 1877; Burns 56-716; Baldwin 998.

Right to rely on record of mortgage. *Vincennes Savings and Loan Assn. v. St. John* (1938), 213 Ind. 171, 12 N. E. (2d) 127.

<sup>152</sup> *The Revised Laws of the State of Indiana, 1831* (Indianapolis, 1831), ch. 41, secs. 7, 11 (volume hereinafter cited as Rev. Laws 1831). Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1939 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14731.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

<sup>153</sup> Acts 1933; Burns 64-929; Baldwin 15927.

<sup>154</sup> 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

<sup>155</sup> Acts 1921, 1931, 1935, 1939; Burns, 1939 suppl., 47-301; Baldwin, 1939 suppl., 11128.

to judicial circuits composed of more than one county. The circuit court has consisted of one judge since 1851. Before then it was composed of three judges (two associate judges who served in Morgan County only, and one president judge who served in each county of the judicial circuit). The following courts previously existed in Morgan County, but were abolished: Probate court, 1829 to 1853; court of common pleas, 1853 to 1873; and court of conciliation, 1853 to 1865.<sup>156</sup>

The circuit court has original jurisdiction of naturalization proceedings under the federal laws, all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction), all civil actions at law, all suits in equity, divorce and alimony proceedings, declaratory judgment proceedings, juvenile matters, insanity inquests and commitments, election contests, proceedings for removal of county officers, quo warranto proceedings, proceedings for mandate, prohibition, and injunction, proceedings to quiet title to real estate, partition proceedings, ne exeat proceedings, habeas corpus proceedings, proceedings to commit persons to hospitals operated by Indiana University, eminent domain proceedings, proceedings to establish drainage districts and assessments, proceedings for change of names, adoption proceedings, receiverships, bastardy proceedings, guardianships, probate of wills, and administration of estates of decedents, minors, and insane persons. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters. The United States Department of Labor does not furnish the Morgan Circuit Court with the necessary printed forms for naturalization proceedings, hence this court is prevented from exercising its naturalization jurisdiction. Naturalization forms were furnished to this court until 1926 and will be furnished again whenever the number of aliens in the county is large enough.<sup>157</sup>

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<sup>156</sup> See the essay entitled "Circuit Court."

<sup>157</sup> General provisions. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Naturalization proceedings. U. S. Stat. 2:153, 155 (law of 1802); 4:69 (law of 1824). *The Code of the Laws of the U. S. A. of a General and Permanent Character in Force January 3, 1925* (Washington, 1935), title 8, sec. 357 (laws of 1906, 1911, 1913), (volume hereafter cited as U. S. C.). Interview of March 5, 1940 with Walter A. Kiefer, Assistant District Director of U. S. Immigration and Naturalization Service, Cincinnati District.

Criminal cases within exclusive jurisdiction of justices of the peace. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

Divorce and alimony. Acts 1873, 1933; Burns 3-1203, 3-1217; Baldwin 904, 926. Acts 1903; Burns 3-1232; Baldwin 935. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

The circuit court has appellate jurisdiction<sup>158</sup> to review decisions of justices of the peace,<sup>159</sup> city courts,<sup>160</sup>

Declaratory judgment proceedings. Acts 1927; Burns 3-1101 to 3-1116; Baldwin 438-453.

Election contests. Acts 1933, 1935; Burns, 1939 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan* (1938), 214 Ind. 279, 15 N. E. (2d) 384.

Removal of county officers. Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *Bateman v. State* (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

Quo warranto. Acts 1881 (Spec. Sess.), 1929; Burns 3-2001 to 3-2016; Baldwin 1045, 1046, 1054, 1047 to 1060.

Eminent domain. Acts 1905, 1935; Burns, 1939 suppl., 3-1702; Baldwin, 1935 suppl., 14062. Acts 1905; Burns 3-1707; Baldwin 14068.

Drainage districts and assessments. Acts 1933; Burns 27-104, 27-109, 27-116, 27-122, 27-134; Baldwin 5740, 5745, 5752, 5758, 5770. *Penn v. Ducomb* (1938), 213 Ind. 133, 12 N. E. (2d) 116.

Change of name. 2 Rev. Stat. 1852, 1905; Burns 3-801 to 3-805; Baldwin 869 to 873.

Adoption. Acts 1855, 1883; Burns 3-101, 3-103; Baldwin 681, 684.

Receiverships. Acts 1881 (Spec. Sess.); Burns 3-2601 *et seq.*; Baldwin 1143 *et seq.*

Bastardy proceedings. 2 Rev. Stat. 1852; Burns 3-606 to 3-614, 3-616; Baldwin 851, 855, 856, 859, 852, 854, 857, 858, 860, 865. 2 Rev. Stat. 1852, 1877, 1935; Burns, 1939 suppl., 3-605, 3-615; Baldwin, 1935 suppl., 850, 861.

Mandate and prohibition. Acts 1881 (Spec. Sess.), 1911, 1915, 1933; Burns 3-2201 to 3-2208; Baldwin 1090 to 1093, 1095, 1095-1, 1096, 1097.

Injunction. Acts 1881 (Spec. Sess.), 1899; Burns 3-2101 to 3-2120; Baldwin 1061 to 1080.

Quieting title. Acts 1881 (Spec. Sess.), 1911, 1915; Burns 3-1401 to 3-1410; Baldwin 966, 3303, 3304, 967, 942, 943, 970, 969, 968, 968 note. Acts 1935; Burns, 1939 suppl., 3-1417, 3-1418; Baldwin, 1935 suppl., 558-1, 558-2.

Partition. 2 Rev. Stat. 1852, Acts 1881 (Spec. Sess.), 1897; Burns 3-2401 *et seq.*; Baldwin 1106 *et seq.*

Ne exeat. Acts 1881 (Spec. Sess.); Burns 3-2301 to 3-2307; Baldwin 1102, 1105, 1098, 1099, 1100, 1101, 1103.

Habeas Corpus. Acts 1881 (Spec. Sess.); Burns 3-1901 to 3-1925; Baldwin 1020 *et seq.*

Juvenile matters. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

Insane persons. 2 Rev. Stat. 1852, Acts 1895; Burns 8-202 *et seq.*; Baldwin 3460 *et seq.* Acts 1855; Burns 22-1401 *et seq.*; Baldwin 1081 *et seq.* Acts 1939; Burns, 1939 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

Wills. 2 Rev. Stat. 1852; Burns 7-401, 7-414, 7-503, 7-506; Baldwin 3376, 3388, 3393, 3401. Acts 1911, 1921, 1933; Burns 7-504; Baldwin 3395.

Hospitals operated by Indiana University. Acts 1939; Burns, 1939 suppl., 28-5417; Baldwin, 1939 suppl., 14078-89c.

<sup>158</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

<sup>159</sup> 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

<sup>160</sup> Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

board of commissioners,<sup>161</sup> board of review fixing value of property for taxation,<sup>162</sup> taxing authorities determining that property is taxable,<sup>163</sup> board of public works or board of park commissioners of any city in the county (or city council performing such functions),<sup>164</sup> and other inferior tribunals when no express direction is given as to the court to which the appeal lies.<sup>165</sup>

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to punish contempts; to issue all process necessary for the exercise of its jurisdiction (including process to inferior courts);<sup>166</sup> and to adopt rules for conducting its business.<sup>167</sup> Decisions of the circuit court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.<sup>168</sup>

In each township in Morgan County there is a justice of the peace, elected for a 4-year term by the voters of the township. He has original jurisdiction (concurrent with the circuit court) of certain civil actions involving \$200 or less, with power to render judgment up to \$300 on confession, exclusive original jurisdiction of misdemeanors under the state laws punishable by fine not exceeding \$3, original jurisdiction (concurrent with the circuit court) of all other misdemeanors under the state laws punishable by fine only, with power to assess fines only up to \$25, and jurisdiction as a committing magistrate in criminal cases under the state laws. His civil jurisdiction is limited to his township, but his criminal jurisdiction is co-extensive with his county. Each justice of the peace must pay to the county treasurer all fines which he collects. Morgan County has had justices of the peace since its organization in 1822.<sup>169</sup>

<sup>161</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. *State ex rel. Sink v. Cass Circuit Court* (1938), 214 Ind. 323, 15 N. E. (2d) 624.

<sup>162</sup> Acts 1927; Burns 64-1020; Baldwin 15686.

<sup>163</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

<sup>164</sup> Acts 1933; Burns 48-4501; Baldwin 11576.

<sup>165</sup> *Hamilton v. Fort Wayne* (1880), 73 Ind. 1.

<sup>166</sup> 2 Rev. Stat. 1852; Burns 4-305 to 4-307, 4-312; Baldwin 1398 to 1400, 1405.

<sup>167</sup> 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

<sup>168</sup> 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915; 1925; Burns 4-214; Baldwin 1356.

<sup>169</sup> Const. 1816, art. 5, sec. 12. Const. 1851, art. 7, sec. 14. *The Revised Statutes of the State of Indiana, 1838* (Indianapolis, 1838), ch. 7 (second act), sec. 1 (volume hereafter cited as Rev. Stat. 1838); ch. 58, secs. 1, 5, 14, 18, 19, 39. Rev. Stat. 1843, ch. 4, secs. 21-25; ch. 47, secs. 1-13; ch. 55, secs. 1, 5-8. 2 Rev. Stat. 1852, pt. 4, ch. 1, secs. 1-3; ch. 6, secs. 1-9. Acts 1913; Burns

Arranged according to subject matter, the courts existing in Morgan County from 1822 to date have had original jurisdiction as follows:—*Civil actions at law:* (a) circuit court (1822 to date);<sup>170</sup> (b) probate court (1838 to 1853);<sup>171</sup> (c) court of common pleas (1853 to 1873);<sup>172</sup> *criminal cases:* (a) circuit court (1822 to date);<sup>173</sup> (b) court of common pleas (1853 to 1873);<sup>174</sup> *chancery cases:* (a) circuit court (1822 to date);<sup>175</sup> (b) probate court (1838 to 1853);<sup>176</sup> (c) court of common pleas

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5-101; Baldwin 1828. 2 Rev. Stat. 1852, Acts 1861; Burns 5-201, 5-208; Baldwin 1857, 1859. Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

<sup>170</sup> Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, sec. 5. *The Revised Laws of the State of Indiana, 1824* (Corydon, Indiana, 1824), ch. 24, secs. 4, 5 (volume hereafter cited as Rev. Laws 1824). Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 88, sec. 1. *The Revised Statutes of the State of Indiana, 1824* (Indianapolis, 1843), ch. 38, secs. 7, 10-12 (volume hereafter cited as Rev. Stat. 1843). 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

<sup>171</sup> Power proceedings, partition proceedings, and actions concerning heirs, devisees, executors, administrators, and guardians. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 5, 6. Rev. Stat. 1843, ch. 39, secs. 1, 6-8.

The probate court was abolished in 1853, and its jurisdiction was transferred to the court of common pleas. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Jones v. Cavins (1853), 4 Ind. 305.

<sup>172</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 5, 7, 11, 12, 23. Jones v. Cavins (1853), 4 Ind. 305. The court of common pleas had no jurisdiction of civil actions at law involving title to real estate, or to recover on bonds of state or county officers, or to recover damages for slander, libel, or breach of marriage contract, or to recover \$1,000 or more, or to recover \$50 or less. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11.

The court of common pleas was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

<sup>173</sup> Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5-7; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, secs. 5-7. Rev. Laws 1824, ch. 24, secs. 4-6. Rev. Laws 1831, ch. 22, secs. 3-5. Rev. Stat. 1838, ch. 23 (first act), secs. 3-5. Rev. Stat. 1843, ch. 38, secs. 9, 12, 13. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5. Acts 1867, ch. 16, sec. 1; ch. 26. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

<sup>174</sup> The court of common pleas had no jurisdiction of offenses punishable by death. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 14-19. Jones v. Cavins (1853), 4 Ind. 305.

<sup>175</sup> Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2; ch. 4. Acts 1817-18 (general), ch. 2, sec. 5; ch. 3. Rev. Laws 1824, ch. 24, secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), secs. 3, 12. Rev. Stat. 1843, ch. 38, secs. 8, 10-12; ch. 46, secs. 1-3. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

<sup>176</sup> Chancery suits in favor of or against heirs, devisees, legatees, executors, administrators, or guardians, and their sureties and representatives. Acts 1828-29, ch. 26, secs. 1, 2. Rev.

(1853 to 1873);<sup>177</sup> probate matters, settlement of decedents' estates, and guardianships: (a) circuit court (1822 to 1829, 1873 to date);<sup>178</sup> (b) probate court (1829 to 1853);<sup>179</sup> (c) court of common pleas (1853 to 1873);<sup>180</sup> juvenile matters: (a) circuit court (1867 to date);<sup>181</sup> (b) court of common pleas (1867 to 1873);<sup>182</sup> conciliation: court of conciliation (1853 to 1865);<sup>183</sup> naturalization proceedings: (a) circuit court (1822 to date);<sup>184</sup> (b) court of common pleas (1853 to 1873).<sup>185</sup>

Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 5. Rev. Stat. 1843, ch. 39, secs. 1, 6; ch. 46, secs. 1-3.

177 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 7, 11, 21. Jones v. Cavins (1853), 4 Ind. 305.

178 Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, secs. 2, 3. Acts 1817-18 (general), ch. 2, sec. 5; ch. 13. Rev. Laws 1824, ch. 24, secs. 4, 5; ch. 79. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 22, sec. 3; ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 24, secs. 1, 4-6. Rev. Stat. 1843, ch. 38, secs. 6-13; ch. 39, secs. 1, 6-8. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 5, 43. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1873: Burns 4-328; Baldwin 1417. Jones v. Cavins (1853), 4 Ind. 305.

179 Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 4-6. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1, 5-8. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Jones v. Cavins (1853), 4 Ind. 305.

180 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 4. Acts 1873; Burns 4-328; Baldwin 1417. Jones v. Cavins (1853), 4 Ind. 305.

181 Acts 1867, ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1875, ch. 45. Acts 1879, ch. 58. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

182 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 1. Acts 1867, ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1873; Burns 4-328; Baldwin 1417.

183 Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2. Jones v. Cavins (1853), 4 Ind. 305.

The court of conciliation was abolished in 1865. Acts 1865 (Spec. Sess.), ch. 57.

184 U. S. Stat. 2:153, 155 (law of 1802); 4:69 (law of 1824). U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913). Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, sec. 5. Rev. Laws 1824, ch. 24, secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 88, sec. 1. Rev. Stat. 1843, ch. 38, secs. 7, 10-12. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Because of the failure of the United States Department of Labor to furnish the necessary printed forms, this court is prevented from exercising its jurisdiction in naturalization proceedings.

185 U. S. Stat. 2:153, 155 (law of 1802); 4:69 (law of 1824). U. S. C., title 8, sec. 357

Decisions of the circuit court were reviewable by the Supreme Court of Indiana from 1822 until 1891, and since 1891 by the Supreme Court of Indiana or the Appellate Court of Indiana.<sup>186</sup> Decisions of the probate court (1829 to 1853) and the court of common pleas (1853 to 1873) were reviewable by the Morgan Circuit Court or the Supreme Court of Indiana.<sup>187</sup> Proceedings in the court of conciliation could not be appealed to another court.<sup>188</sup>

In 1937 the Supreme Court of Indiana said: "Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal view, and even though it shocks our sense of justice and fairness."<sup>189</sup>

The clerk of the circuit court, in person or by deputy, performs for the circuit court the numerous statutory and customary duties of clerk.<sup>190</sup> From 1829 until 1853 the clerk of the circuit court was *ex officio* clerk of the probate court;<sup>191</sup> and from 1853 until 1873 he was *ex officio* clerk of the court of common pleas.<sup>192</sup>

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes the process of the court.<sup>193</sup> Constables perform similar duties

(laws of 1906, 1911, 1913). 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 5, 7, 11, 12, 21, 23. Acts 1873; Burns 4-328; Baldwin 1417. Jones v. Cavins (1853), 4 Ind. 305.

<sup>186</sup> Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1891, ch. 37. Acts 1893, ch. 32. Acts 1897, ch. 9. Acts 1899, ch. 22. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

<sup>187</sup> Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36. 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550.

<sup>188</sup> Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 7, 12-14.

<sup>189</sup> State v. Brown (1937), 213 Ind. 118, 124, 11 N. E. (2d) 679.

<sup>190</sup> 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. See the essay entitled "Clerk of the Circuit Court."

<sup>191</sup> Acts 1829-30, ch. 26, sec. 3. Rev. Laws 1831, ch. 25, sec. 7. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

<sup>192</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 25, 26. Acts 1873; Burns 4-328; Baldwin 1417.

<sup>193</sup> 2 Rev. Stat. 1852; Burns 49-2802, 49-2803; Baldwin 5494, 5495. See the essay entitled "Sheriff."

for the justices of the peace.<sup>194</sup> Bailiffs (appointed by the judge as needed) wait on the grand and petit juries and preserve order during their proceedings and deliberations.<sup>195</sup> If no bailiff is appointed, the sheriff or his deputy performs these duties. The coroner performs these duties of the sheriff in the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office.<sup>196</sup> If the coroner is also absent or incapacitated, the judge appoints an elisor to perform these duties of the sheriff.<sup>197</sup> The prosecuting attorney acts as attorney for the state in criminal cases under state laws and as attorney for the county and state in certain civil cases.<sup>198</sup> The probation officer (appointed by the judge for an indefinite term when needed) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.<sup>199</sup> The county director of public welfare performs duties of the probation officer when so directed by the court.<sup>200</sup> The court reporter (appointed by the judge for an indefinite term, takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.<sup>201</sup> Two jury commissioners (annually appointed by the judge) prepare lists of names from which the grand and petit juries

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<sup>194</sup> 2 Rev. Stat. 1852; Burns 5-601; Baldwin 1865. Acts 1905; Burns 9-710; Baldwin 2081.

2 Rev. Stat. 1852; Burns 49-3401, 49-3403, 49-3407; Baldwin 16116, 16119, 16122.

<sup>195</sup> 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, pt. 1, ch. 6, sec. 4. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. *Adams v. State* (1938), 214 Ind. 603, 17 N. E. (2d) 84.

*Opinions of the Attorney General of Indiana*, 1939, p. 312.

<sup>196</sup> 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

<sup>197</sup> 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

<sup>198</sup> 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. *Freed v. Martin Circuit Court* (1938), 214 Ind. 152, 14 N. E. (2d) 910; *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020. See the essay entitled "Prosecuting Attorney."

<sup>199</sup> Acts 1903, ch. 23, sec. 2. Acts 1925, ch. 218. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2364.

<sup>200</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21.

See the essay entitled "County Department of Public Welfare."

<sup>201</sup> Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1283 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1300. *Adams v. State* (1938), 214 Ind. 603, 17 N. E. (2d) 84.

are drawn.<sup>202</sup> The court page (appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.<sup>203</sup>

Formerly a jury was used in coroner's inquests, but such juries were abolished in 1879. Under the present system, coroners act in a nonjudicial capacity when holding inquests.<sup>204</sup>

#### LAW ENFORCEMENT

The constitution provides that all judicial officers shall be conservators of the peace in their respective jurisdiction,<sup>205</sup> and that all criminal prosecutions shall be carried on "in the name, and by the authority of, the state."<sup>206</sup>

Investigations of alleged violations of criminal law are conducted by the prosecuting attorney,<sup>207</sup> the sheriff,<sup>208</sup> or the coroner,<sup>209</sup> cooperating with one another and with state and federal bureaus of law enforcement;<sup>210</sup> and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.<sup>211</sup>

<sup>202</sup> Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.) 1939; Burns, 1939 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Crickmore v. State (1938), 213 Ind. 586, 12 N. E. (2d) 266; Johnson v. State (1938), 213 Ind. 659, 14 N. E. (2d) 96; Foreman v. State (1938), 214 Ind. 79, 14 N. E. (2d) 546.

<sup>203</sup> Dunn v. State *ex rel.* Corydon (1933), 204 Ind. 330, 184 N. E. 535. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

<sup>204</sup> Acts 1807, ch. 8, secs. 2-10. Acts 1817-18 (general), ch. 20, secs. 1-9. Rev. Laws 1824, ch. 100, secs. 10-22. Rev. Stat. 1838, ch. 99 (1), secs. 1-23; ch. 99 (2), secs. 1-3. Rev. Stat. 1843, ch. 5, sec. 136; ch. 37, sec. 125; ch. 38, secs. 82-84; ch. 56, secs. 1-16. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a. Acts 1879; Burns 49-2905; Baldwin 5444. Stults v. Board of County Comrs. 168 Ind. 539, 81 N. E. 471.

<sup>205</sup> Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

<sup>206</sup> Const. 1816, art. 5, sec. 11. Const. 1851, art. 7, sec. 18.

<sup>207</sup> 2 Rev. Stat. 1852; Burns 49-2803; Baldwin 5459. State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

<sup>208</sup> 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

<sup>209</sup> 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

<sup>210</sup> Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

<sup>211</sup> Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

"An inquiry of a grand jury is not limited to the consideration of that which would be admissible on the trial of a cause. Any testimony which might legally affect the finding of or refusal to find an indictment is material on a grand jury investigation." Maddox v. State (1938), 213 Ind. 537, 12 N. E. (2d) 947.

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.<sup>212</sup> The grand jury consists of six members,<sup>213</sup> at least five of whom must concur in the finding of an indictment. When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill" and signs his name thereunder. The indictment is also signed by the prosecuting attorney.<sup>214</sup>

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.<sup>215</sup> He may also prosecute on affidavit all criminal offenses under the state laws, other than treason and murder.<sup>216</sup>

Actual enforcement of criminal law in the county is entrusted to the sheriff and the coroner, both offices having existed in Morgan County since its organization in 1822.<sup>217</sup> As law enforcement officers, they have identical powers and duties;<sup>218</sup> in practice, however, the coroner performs few of

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<sup>212</sup> Acts 1905; Burns 9-826; Baldwin 2122.

<sup>213</sup> Acts 1905; Burns 9-801; Baldwin 2097.

Const. 1851, art. 7, sec. 16; art. 15, sec. 4, concerning eligibility and oath of officers, do not apply to grand jurors. Adams v. State (1938), 214 Ind. 603, 17 N. E. (2d) 84.

<sup>214</sup> Acts 1905; Burns 9-901; Baldwin 2123. Neal v. State (1938), 214 Ind. 328, 14 N. E. (2d) 590, 15 N. E. (2d) 950.

Endorsement by prosecuting attorney. Taylor v. State (1888), 113 Ind. 471, 16 N. E. 183; Robinson v. State (1912), 177 Ind. 263, 97 N. E. 929; Hamer v. State (1928), 200 Ind. 403, 163 N. E. 91.

Statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. Peats v. State (1938), 213 Ind. 560, 12 N. E. (2d) 270.

<sup>215</sup> 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

<sup>216</sup> Acts 1905, 1927; Burns 9-908; Baldwin 2131.

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." The court cannot compel the prosecuting attorney to approve such affidavit. State *ex rel.* Freed v. Martin Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910.

"In him [the prosecuting attorney] is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. Judges and courts cannot substitute their discretion for that of the prosecuting attorney." State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

<sup>217</sup> Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Acts 1821-22, ch. 24, sec. 1.

<sup>218</sup> 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

these duties, except in the absence or incapacity of the sheriff. These officers make arrests in accordance with warrants issued by the circuit court or by the clerk of the circuit court, based on indictments returned by the grand jury or affidavits filed with the court.<sup>219</sup> Warrants for arrest may also be issued by the coroner, when the results of an inquest indicate that a felony was committed.<sup>220</sup> Arrest without warrant can be made for a felony, when the arresting officer has reliable information of the commission of the crime by the person arrested; and arrest without warrant can be made for a felony or misdemeanor committed within view of the arresting officer.<sup>221</sup> A warrant issued to the sheriff of the county in which the indictment was found or the affidavit was filed may be executed by him in any county of the state.<sup>222</sup>

In the constitution there are many provisions for the benefit of persons accused of crime. Justice must be administered freely, and without purchase; speedily, and without delay.<sup>223</sup> The accused has the right to a public trial in the county in which the offense was committed; the right to be heard by himself and counsel; the right to demand the nature and cause of the accusation against him, and to have a copy thereof; the right to meet the witnesses face to face; and the right to have compulsory process for obtaining witnesses in his favor.<sup>224</sup> No person can be put in jeopardy twice for the same offense. In a criminal prosecution, no person can be compelled to testify against himself.<sup>225</sup> A person arrested or confined in jail must not be treated with unnecessary rigor.<sup>226</sup> Excessive bail must not be required. Excessive fines must not be imposed. Cruel and unusual punishments must not be inflicted. All penalties must be proportioned to the nature of the offense.<sup>227</sup> Offenses other than murder and treason are always bailable by sufficient sureties. Murder

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<sup>219</sup> Acts 1881 (Spec. Sess.); Burns 3-302; Baldwin 725.

<sup>220</sup> 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

<sup>221</sup> Doering v. State (1874), 49 Ind. 56, 19 Am. Rep. 669; Hart v. State (1924), 195 Ind. 384, 145 N. E. 449.

<sup>222</sup> Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

<sup>223</sup> Const. 1851, art. 1, sec. 12.

<sup>224</sup> *Ibid.*, sec. 13.

<sup>225</sup> *Ibid.*, sec. 14.

<sup>226</sup> *Ibid.*, sec. 15.

<sup>227</sup> *Ibid.*, sec. 16.

and treason are bailable unless the proof of guilt is evident or the presumption of guilt is strong.<sup>228</sup> The penal laws of Indiana are founded on the principles of reformation, and not of vindictive justice.<sup>229</sup> In all criminal cases the jury has the right to determine both the law and the facts.<sup>230</sup> The privilege of the writ of habeas corpus (to obtain release from unlawful detention) cannot be suspended, except in case of rebellion or invasion; and then only if the public safety demands such suspension.<sup>231</sup> No conviction can "work corruption of blood or forfeiture of estate."<sup>232</sup> The governor has power to grant reprieves, commutations, and pardons, and to remit fines and forfeitures.<sup>233</sup>

The county jail is maintained by the county,<sup>234</sup> the sheriff being responsible for its management.<sup>235</sup> Inspection or investigation is made by the grand jury at the beginning of each regular session,<sup>236</sup> and by the board of commissioners every 3 months.<sup>237</sup>

#### FINANCE

##### APPROPRIATIONS AND BUDGETS

The power of making appropriations of money to be paid out of the county treasury has been vested exclusively in the county council since 1899.<sup>238</sup> Before 1899 the board of commissioners performed the duties now performed by the county council.<sup>239</sup>

No money can be drawn from the county treasury not in pursuance of appropriation therefor,<sup>240</sup> except in the following

<sup>228</sup> *Ibid.*, sec. 17.

<sup>229</sup> *Ibid.*, sec. 18.

<sup>230</sup> *Ibid.*, sec. 19.

<sup>231</sup> *Ibid.*, sec. 27.

<sup>232</sup> *Ibid.*, sec. 30.

<sup>233</sup> *Ibid.*, art. 5, sec. 17.

<sup>234</sup> 1 Rev. Stat. 1852; Burns 13-1001; Baldwin 13448.

<sup>235</sup> 1 Rev. Stat. 1852; Burns 13-1004; Baldwin 13453.

<sup>236</sup> 1 Rev. Stat. 1852; Burns 13-1002; Baldwin 13449.

<sup>237</sup> Acts 1909; Burns 13-1008; Baldwin 13460.

<sup>238</sup> Acts 1899; Burns 26-515; Baldwin 5379, "Requirements for Spending Public Money," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (Indianapolis, 1940), 8-14.

<sup>239</sup> 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

<sup>240</sup> Acts 1899; Burns 26-515; Baldwin 5379.

instances: (a) Money belonging to the state and commanded by law to be paid into the state treasury; (b) money belonging to any school fund; (c) money belonging to any fund of any township, town, or city, and commanded by law to be paid to such municipality; (d) money, due to any person, which has been paid into the county treasury pursuant to public improvement assessments on persons or property of the county in territory less than the whole county; (e) money, due to any person, which has been paid into the treasury for redemption from any tax or other sale; or money so due that has been paid pursuant to authority of law as a tender or payment to such person; (f) taxes erroneously paid; (g) funds received from the state or federal governments for welfare assistance or public work projects;<sup>241</sup> and (h) salaries fixed by law.<sup>242</sup>

Before the Thursday following the 1st Monday in August each year, the various officials of the county (including township trustees or assessors) submit to the auditor estimates of expenditures for the ensuing calendar year and estimates of probable revenue to be received from the state during that period. The estimates are kept on file in the auditor's office, subject to inspection by any taxpayer of the county. The auditor publishes notice of the aggregate amount of each of such estimates, and prepares an ordinance making an appropriation by items for the ensuing calendar year for the various purposes for which all of the estimates are required. At the annual meeting of the county council on the 1st Tuesday after the 1st Monday in September, the auditor submits all of the estimates to the county council and makes recommendations with reference thereto. The council, at that meeting, considers the estimates and the proposed ordinance, and makes such changes as deemed necessary. A three-fourths vote is required to make appropriation for any item not contained in any estimate or for a greater amount than that named in any item of any estimate. The ordinance making the appropriation for the ensuing year is adopted after being read on at least two separate days. This appropriation is called the annual county budget, and the estimates of expenditures and revenue are called budget estimates.<sup>243</sup>

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<sup>241</sup> Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

<sup>242</sup> Blue v. State *ex rel.* Powell (1936), 210 Ind. 486, 1 N. E. (2d) 122.

Salaries fixed by judge of circuit court for bailiff and page. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

<sup>243</sup> Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

If an emergency arising after the adjournment of the annual meeting requires funds supplementary to those originally included in the annual budget, additional appropriations may be made in an ordinance passed by a two-thirds vote of all the members of the council at a special meeting, after estimates are prepared and submitted in the manner required for annual estimates. If the aggregate amount of the requested appropriation exceeds \$15,000, the ordinance must be read on two separate days before passage.<sup>244</sup> Such additional appropriations must be approved by the state board of tax commissioners.<sup>245</sup>

When any item of appropriation remains unexpended at the end of the calendar year for which it was appropriated, the amount thereof reverts to the general fund of the county, and no warrant can be drawn thereon. However, time for withdrawal is extended where payment was withheld during such year because of an injunction which was later dissolved.<sup>246</sup> It is unlawful to overdraw the amount of any item of appropriation or to use the funds of any item for an unauthorized purpose.<sup>247</sup>

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Appropriations can be made only by the passage of ordinances. *State ex rel. Davis v. Board of County Comrs.* (1905), 165 Ind. 262, 74 N. E. 1091.

The statutory provision requiring an ordinance for an appropriation to be read on two separate days is mandatory, and on failure to comply therewith the ordinance is invalid. *Van-Der Veer v. State ex rel. Herron* (1929), 97 Ind. App. 1, 165 N. E. 265.

The surveyor's budget estimates of costs of maintenance of roads is under the control of the board of commissioners, and may be changed at any time by the board without the approval of the surveyor or the county highway supervisor. *Bateman v. State* (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

<sup>244</sup> Acts 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

The council's determination of emergency is not conclusive on the courts. *State ex rel. Kautz v. Board of County Comrs.* (1933), 204 Ind. 484, 184 N. E. 780.

The words "emergency growing out of a flood, fire, pestilence, war, or other major disaster" are used in Acts 1937; Burns, 1939 suppl., 64-312; Baldwin, 1937 suppl., 15897-6.

Provisions concerning township poor relief and public welfare services. Acts 1935; Burns, 1939 suppl., 52-174; Baldwin, 1935 suppl., 13320-31. Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1303; Baldwin, 1937 suppl., 14078-100.

<sup>245</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>246</sup> Acts 1899, 1903, 1905; Burns 26-524; Baldwin 5388.

<sup>247</sup> Acts 1899; Burns 26-523; Baldwin 5387. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

No county official or court has power to bind the county by any contract, express or implied, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred.<sup>248</sup>

#### TAXATION

The power of taxation is inherent in the state, and is a legislative power limited only by the provisions of the constitution.<sup>249</sup> The constitution provides that "The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law."<sup>250</sup> This section applies only to a general assessment on property according to its value, and does not apply to excise taxes.<sup>251</sup> Exemptions are discussed hereinafter.

In Indiana there are poll taxes, excise taxes, and property taxes. A poll tax is a tax assessed on the person. An excise tax is a tax on privileges, and includes taxes on occupations, inheritance, sale of gasoline, and the like. Laws imposing excise taxes are sometimes called "internal revenue laws." The property tax (also known as ad valorem tax) is the tax on real and personal property based on value, and it constitutes the largest part of the county revenue. Property

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<sup>248</sup> Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

But lack of appropriation does not prevent entry of a judgment binding the county, where the court has jurisdiction of the parties and subject matter of the action. Acts 1899; Burns 26-527; Baldwin 5391. *Board of County Comrs. v. McGregor* (1909), 171 Ind. 634, 87 N. E. 1.

<sup>249</sup> State *ex rel.* Goodman v. Halter (1897), 149 Ind. 292, 47 N. E. 665; Dunn v. Indianapolis (1935), 208 Ind. 630, 196 N. E. 528; Miles v. Department of Treasury (1935), 209 Ind. 172, 199 N. E. 372. "Taxation in Indiana the Last Forty-Eight Years," *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939* (1939), 75-89.

<sup>250</sup> Const. 1851, art. 10, sec. 1.

The legislative power to exempt from taxation extends only to property "for municipal, education, literary, scientific, religious or charitable purposes." Stark v. Kreyling (1934), 207 Ind. 128, 188 N. E. 680. *Opinions of the Attorney General of Indiana, 1939*, p. 62.

<sup>251</sup> State Bd. of Tax Comrs. v. Jackson (1831), 283 U. S. 527, 75 L. Ed. 1248, 51 Sup. Ct. 540; Miles v. Department of Treasury (1935), 209 Ind. 172, 199 N. E. 372; Davis v. Sexton (1936), 210 Ind. 198, 200 N. E. 233.

may be subject to an excise tax and also a property tax. Excise taxes administered by county officers are discussed hereinafter under the heading "Excise Taxes and Licensing."

In each township having a population not exceeding 5,000 (all townships except Washington), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.<sup>252</sup>

A poll tax is assessed on every male inhabitant of the state between the age of 21 and 50 years, and every such person must be listed for his poll tax in the township, town, or city of his residence.<sup>253</sup> Poll tax exemptions are allowed to volunteer firemen<sup>254</sup> and former soldiers or sailors receiving service-connected disability compensation.<sup>255</sup> Before 1919 the board of commissioners could grant poll tax exemptions because of inability to pay.<sup>256</sup> The auditor certifies to city officials the number of taxable polls therein,<sup>257</sup> and adds omitted polls to the tax duplicate.<sup>258</sup> Poll taxes are collected by the county treasurer. A poll tax receipt must be presented to any licensing authority to obtain an occupation license required by state law, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.<sup>259</sup>

The property tax laws are administered by the township assessors, county assessor, auditor, treasurer, board of review, county council, and board of tax adjustment, under the

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<sup>252</sup> Acts 1933; Burns 64-1031; Baldwin 15664.

Vacancy caused by death of township assessor. *Opinions of the Attorney General of Indiana, 1939*, p. 243.

<sup>253</sup> Acts 1919; Burns 64-102; Baldwin 15515.

<sup>254</sup> 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1939 suppl., 48-6161; Baldwin, 1939 suppl., 12653-1.

<sup>255</sup> Acts 1923; Burns 45-1210; Baldwin 10917. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1939 suppl., 64-201, 64-220; Baldwin, 1937 suppl., 15518, 15515-1.

Before 1937 exemption was granted to all militiamen, soldiers, and sailors in active service. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-201; Baldwin 15518.

<sup>256</sup> 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). *Opinions of the Attorney General of Indiana, 1936*, p. 83.

<sup>257</sup> Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

<sup>258</sup> Acts 1919; Burns 64-2102; Baldwin 15803.

<sup>259</sup> Acts 1931; Burns 42-102 to 42-105; Baldwin 10499 to 10501, 10503.

supervision of the state board of tax commissioners.<sup>260</sup> The state board prescribes rules and forms for the subordinate tax officials and instructs them concerning their duties.<sup>261</sup> It makes original assessments of certain classes of property of railroads, telephone companies, and other public utilities,<sup>262</sup> and supervises and reviews assessments, appropriations, and levies of the subordinate tax officials.<sup>263</sup>

The principal steps in property taxation, stated in their chronological order, are assessment, budget, levy, and collection. The assessment is the determination of what property is taxable and the value thereof. The budget is the appropriation of money for expenditures for the next calendar year. The levy is the charging of a certain amount of taxes against each \$100 of assessed valuation to raise the money required for the budget. The collection involves the voluntary payment and also proceedings to compel payment.<sup>264</sup>

<sup>260</sup> Interview of May 18, 1939 with Philip Zoercher, chairman of the state board of tax commissioners. See the authorities cited hereinafter under specific text statements.

<sup>261</sup> Acts 1919, 1921; Burns 64-1309, 64-2803, 64-2806; Baldwin 15713, 15866, 15869. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), pp. 22-30, 53, 54, 102, 103, 123-139.

<sup>262</sup> The state board of tax commissioners assesses property of the following companies: Railroad, telephone, express, telegraph, sleeping car, pipe line, car equipment (tank, refrigerator, freight), and "public utility" (heat, light, water, power, elevator, and warehouse service).

In case of railroads, the state board assesses the railroad track and the rolling stock. Local authorities assess personal property that has a fixed location and also real estate outside of the property denominated "railroad track."

The state board assesses the personal and intangible properties of the other specified companies. Their other property is assessed by local authorities.

Car equipment companies pay a tax of 2 percent on their assessed value direct to the state department of treasury.

Except as to the car equipment companies, the assessment of the state board is certified to the county auditor who apportions it among the several townships, towns, and cities entitled to a levy thereon, and places such assessments on the tax duplicate; and thereafter the tax is collected by the county treasurer. Acts 1919, 1921, 1923, 1932 (Spec. Sess.); Burns 64-703 to 64-740; Baldwin 15617 to 15654. "State Board Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 14-21.

<sup>263</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1925, 1927, 1931; Burns 64-1301 to 64-1338; Baldwin 15705 to 15737, 12490 to 12492, 12522, 12527. Acts 1935; Burns, 1939 suppl., 64-1313, 64-1321, 64-1324, 64-1325, 64-1331; Baldwin, 1935 suppl., 15717, 15725, 15728, 15729, 15735.

<sup>264</sup> Interview of May 18, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

Assessment of real and personal property for county purposes also serves as the assessment for state, township, city, and town purposes.<sup>265</sup> Personal property is assessed each year as of the 1st day of March.<sup>266</sup> Though real estate is not reassessed every year (the old assessment remaining in effect until changed), the lien for taxes thereon dates from March 1.<sup>267</sup> All taxable property, real and personal, is required to be assessed at the true cash value thereof.<sup>268</sup> Since personal property and real property are assessed differently, they will be discussed separately, beginning with personal property.

Personal property must be listed for taxation between March 1 and May 15 each year, with reference to the quantity and quality owned on March 1.<sup>269</sup> Each township assessor calls on the taxpayers and furnishes them with blanks for listing personal property. The taxpayer must list, under oath, all personal property held, possessed, or controlled by him, and state what he deems the true cash value of each item. Ordinarily the valuation of the taxpayer is accepted if it is in reason, but the assessor may fix a different valuation. If no list is given by the taxpayer or if the assessor doubts the correctness of the list, he may examine, under oath, the taxpayer and other persons concerning such property, and set down and assess to such person such amount of personal property as he may deem just.<sup>270</sup> If the taxpayer refuses to make a return or oath required by law, the assessor makes a note of such refusal, and the auditor adds 50 percent to the valuation returned by the assessor.<sup>271</sup>

After giving notice to the taxpayer, omitted personal property may be assessed by the township assessor,<sup>272</sup> county

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<sup>265</sup> Acts 1919; Burns 64-2814; Baldwin 15877.

<sup>266</sup> Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

<sup>267</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-2825; Baldwin 15886.

<sup>268</sup> Acts 1919; Burns 64-103, 64-1009; Baldwin 15516, 15675. Acts 1937; Burns, 1939 suppl., 64-1019b; Baldwin, 1937 suppl., 15685-2. "Uniformity of Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 54-85.

<sup>269</sup> Acts 1919; Burns 64-401; Baldwin 15524.

<sup>270</sup> Acts 1919; Burns 64-601 to 64-604, 64-610; Baldwin 15569 to 15572, 15578. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 22-30, 53, 54, 102, 103, 123-139.

<sup>271</sup> Acts 1919; Burns 64-610; Baldwin 15578.

<sup>272</sup> Acts 1919; Burns 64-1025; Baldwin 15692.

assessor,<sup>273</sup> auditor,<sup>274</sup> or board of review;<sup>275</sup> and appeal from such assessment may be taken to the circuit court, on the question of whether such omitted property is taxable.<sup>276</sup>

The county assessor advises and instructs all township assessors in the county; and for this purpose visits each township assessor during March and April each year. The county assessor endeavors to cause uniformity and equality of assessment by the several township assessors. The county assessor and the township assessors may be removed by the state board of tax commissioners for incompetency or neglect of duty.<sup>277</sup>

The board of review, after giving 2 weeks' notice, meets on the 1st Monday in June each year. The board reviews the assessment of personal property, hears complaints of owners, reduces or increases valuations, equalizes valuations, corrects and completes the tax lists, and assesses omitted property. Notice must be given by the auditor to the owner before the board of review assesses omitted property or raise valuations.<sup>278</sup> Any person dissatisfied with the decision of the board of review may appeal to the state board of tax commissioners. Hearings on such appeals are, when possible, held in the auditor's office in the county from which the appeal was taken. The amount fixed by the state board is the final assessment of such property.<sup>279</sup>

The county auditor, on or before March 1 each year, makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation.<sup>280</sup>

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<sup>273</sup> Acts 1919; Burns 64-1102; Baldwin 15698.

<sup>274</sup> Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

<sup>275</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>276</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

<sup>277</sup> Acts 1919, 1921; Burns 64-1001, 64-1102; Baldwin 15666, 15698.

Death of township assessor. *Opinions of the Attorney General of Indiana, 1939*, p. 243.

<sup>278</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>279</sup> Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

<sup>280</sup> Acts 1919, 1937; Burns, 1939 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels of real estate therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.<sup>281</sup> For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees.<sup>282</sup> On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.<sup>283</sup>

Each township assessor is required to call on every person residing in his township for a list of lands owned by such person in such township subject to taxation. The improvements on such lands should be described, and any change of improvements since March 1 of the previous year should be stated. If such person fails to furnish such list within 5 days after being called on, as notified to do, the assessor may make the list according to the best information he can obtain, and the auditor must add 25 percent to the assessor's valuation of such person's lands or improvements which were not assessed for taxation the previous year. On or before the 1st Monday in June in each year, the assessor must make out and deliver to the auditor, in a book furnished by him, a return of all real estate so listed.<sup>284</sup>

Reassessment of lots, lands, or improvements can be made only when authorized by the state board of tax commissioners. If improvements are destroyed or removed, or if the value of improvements is reduced by substantial changes, the taxpayer should apply to the state board for an order for reassessment, since the local officials cannot remove improvements from the tax lists and books or reduce the assessment of improvements without such order for reassessment. The assessments mentioned in the next paragraph below may be made without

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<sup>281</sup> *Ibid.*

<sup>282</sup> Acts 1919; Burns 64-1409; Baldwin 15746.

<sup>283</sup> Acts 1921; Burns 64-519; Baldwin 14777.

<sup>284</sup> Acts 1919; Burns 64-1008, 64-1009, 64-1013, 64-1015, 64-1016; Baldwin 15674, 15675, 15679, 15681, 15682. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 22-30, 53, 54, 102, 103, 123-139. See the following footnote.

an order from the state board. The last general reassessment of real estate in Indiana was made in 1932.<sup>285</sup>

Each person authorized to make assessment valuations of real estate for taxation is charged with the duty of correcting tax book errors as to description of property and name of owner. A notation is made showing any change of ownership since the last assessment. Each township assessor, after giving notice to the occupant of the property or the resident of the county claiming ownership, each year assesses any lots, lands, or improvements found omitted, and makes a return thereof to the auditor as of the year when the same should have been first assessed.<sup>286</sup> The county assessor,<sup>287</sup> auditor,<sup>288</sup> and board of review<sup>289</sup> also have power to assess such omitted property after giving notice. The auditor makes assessment of any newly platted additions to any city or town.<sup>290</sup> Such assessments by the township assessors, county assessor, and auditor may be reviewed and revised at the next meeting of the board of review.<sup>291</sup> The decision of the board of review in reviewing such assessment or in making an original assessment of omitted lots, lands, or improvements may be reviewed by the state board of tax commissioners in the manner provided for review of decisions concerning personal property, discussed above.<sup>292</sup> From any assessment of omitted lots, lands, or improvements, appeal may be taken to the circuit court on the question of such property's taxability.<sup>293</sup>

In case of flood, fire, or other disaster in which a substantial amount of property in any township has been partially

<sup>285</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. "Uniformity of Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 54-85. Interview of March 29, 1940 with Philip Zoercher, chairman of the state board of tax commissioners.

<sup>286</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

<sup>287</sup> Acts 1919; Burns 64-1102; Baldwin 15698.

<sup>288</sup> Acts 1919; Burns 64-1102, 64-2102; Baldwin 15729, 15803.

<sup>289</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>290</sup> Acts 1919; Burns 64-1027; Baldwin 15691.

<sup>291</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

<sup>292</sup> Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

<sup>293</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

or totally destroyed, the state board of tax commissioners must order a survey, determine the locality in which the property has been partially or totally destroyed, and order reassessment of all or part of the property in such township.<sup>294</sup>

The state board, after March 31 of a year in which a general election is not held, may, without petition of taxpayers, order a hearing on the necessity of reassessment for the whole state or for any of the counties or townships thereof. A hearing is held, after notice thereof, in each county in which the affected property is located. The board may then order reassessment.<sup>295</sup>

Any person may, before March 31 in any year, file with the state board of tax commissioners a petition for reassessment of his real estate. At the hearing, the petitioner must show cause for reassessment. Other taxpayers may be heard in opposition. The board may then order the requested reassessment. This is the only method for obtaining reassessment of particular real estate.<sup>296</sup>

A petition for reassessment of all real estate in a township, signed by the necessary percentage—it varies in different townships—of the resident owners of taxable real estate of such township and bearing a certificate of the auditor as to the required number of signers, may be filed with the state board of tax commissioners before March 31 in any year in which there is no general election of state, county, or township officials. If it appears to the board that the petition is in proper order and that the present valuation is inequitable, the board will order reassessment of all or part of the real estate in the township.<sup>297</sup>

Within 10 days after the valuation of real or personal property is determined by the board of review or state board of tax commissioners, the owner may appeal to the circuit court on questions of law concerning such valuation.<sup>298</sup>

There are a great many statutory provisions concerning

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<sup>294</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(c); Baldwin, 1937 suppl., 15685(c).

<sup>295</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(b); Baldwin, 1937 suppl., 15685(b).

<sup>296</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(d); Baldwin, 1937 suppl., 15685 (d).

<sup>297</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

<sup>298</sup> Acts 1927; Burns 64-1020; Baldwin 15686.

exemptions from property taxes, and space will permit only a brief discussion thereof. The following property is exempt from property taxes: Property of the United States and the State of Indiana; property of any county, city, town, or township; lands granted for the use of the common schools; real and personal property (including dormitories) actually used by schools and colleges; property used (or devised to be used) exclusively for educational, literary, scientific, religious, or charitable purposes; property of agricultural associations, cemetery associations, and soldiers' and sailors' memorial associations; property of the American Legion, Young Men's Christian Association, Knights of Columbus, and similar associations; property of fraternal beneficiary associations, college fraternities, and college sororities; historical sites maintained for nonprofit public exhibition; property used exclusively for the purpose of a public library; property owned and used exclusively by the Indiana National Guard or other military organization for armory purposes; bonds and notes issued by any municipality or taxing district of the state for certain purposes; and certain annuities payable by religious or charitable organizations.<sup>299</sup> To obtain such exemptions, sworn statements must be filed with the auditor on or before the 1st day of March each year.<sup>300</sup>

Any Indiana resident owning real estate encumbered by a mortgage may have the amount of the mortgage existing and unpaid on the 1st day of March, not exceeding \$1,000 and not exceeding one-half of the assessed valuation, deducted from the assessed valuation for that year, by filing with the auditor between the 1st day of March and the 1st Monday in May a sworn statement in the form required by law.<sup>301</sup>

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<sup>299</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1939 suppl., 64-201; Baldwin, 1937 suppl., 15518.

Property of cities and towns. Acts 1939; Burns, 1939 suppl., 64-221; Baldwin, 1939 suppl., 15518-5. *Opinions of the Attorney General of Indiana, 1939*, p. 62.

Farms operated by colleges and hospitals. *Opinions of the Attorney General of Indiana, 1939*, p. 146.

Bridge across Ohio River. *Ibid.*, p. 294.

Totally disabled soldiers, sailors, marines, and nurses, and the widows of such soldiers, sailors, or marines. Acts 1927; Burns 64-205 to 64-207; Baldwin 10986 to 10988.

<sup>300</sup> Acts 1937; Burns, 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

<sup>301</sup> Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. *Opinions of the Attorney General of Indiana, 1939*, p. 123. "Mortgage Deductions," *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939* (1939), 64-74.

The county auditor, not later than September 1 each year, apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.<sup>302</sup>

The county council, at its annual meeting in August, adopts a budget, establishes the tax rate, and makes tax levies for the succeeding calendar year. The auditor then schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.<sup>303</sup>

Appeal from the action of the county council may be taken to the state board of tax commissioners. That board, after hearing the objections, may affirm or decrease the total tax levy on any item thereof. The decision of the board, which is final and conclusive "with respect to said levies and such parts thereof as may have been in question," is certified to the auditor, and the auditor certifies it to the taxing units interested therein. When the state board orders a reduction in the levy, it indicates the items in the budget affected by such reduction; and this limits the expenditures for the year, except in cases of extraordinary emergency.<sup>304</sup>

The laws discussed in the next four paragraphs do not apply to levies and rates to meet the following liabilities: (a) Funding, refunding, or judgment funding obligations; (b) "outstanding obligations;" (c) judgments; (d) obligations issued to meet emergency growing out of flood, fire, pestilence, war, or other major disaster; (e) obligations issued on petition under this act; (f) requirements of the county welfare fund for public welfare services. It is the duty of the county council to levy an amount sufficient to meet such purposes, regardless of any statutory provisions to the contrary.<sup>305</sup>

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Under the 1919 act, the owner was not required to be a resident of Indiana in order to obtain a mortgage exemption. Acts 1919; Burns 64-209; Baldwin 15565.

<sup>302</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

<sup>303</sup> Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

<sup>304</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>305</sup> Acts 1937; Burns, 1939 suppl., 64-312, 64-313; Baldwin, 1937 suppl., 15897-6, 15897-7.

Except on authorization of the state board of tax commissioners, the total tax rate for all purposes cannot exceed \$1.25 on each \$100 of taxable property outside incorporated cities and towns or \$2 on each \$100 of taxable property inside incorporated cities and towns.<sup>306</sup>

At least 2 days before the 2d Monday in September, each municipal corporation<sup>307</sup> of the county files with the county auditor a statement of the tax levies and rates for the ensuing year, fixed by such municipal corporation, and at least two copies of the budgets on which such levies are based.<sup>308</sup> The board of tax adjustment meets on the 2d Monday of September each year. At that meeting the auditor lays before the board these budgets, tax levies, and rates.<sup>309</sup> It is the duty of the board of tax adjustment to examine, revise, change, or reduce (but not increase) any budget, tax levy, or rate, and to hold such budget within the total amount of revenue to be raised therefor from any source whatever. Any changes in budgets must be with respect to the total amounts budgeted for each office, and not the detailed items included in such budgeted classifications. While the board of tax adjustment endeavors to keep the rates within the limits above stated, if it decides that such rates are inadequate, it certifies to the state board of tax commissioners its analysis and recommendations together with such data and facts as may be deemed essential to review. The state board (proceeding according to the provisions governing appeals) then reviews the budgets and may authorize rates beyond the said limits.<sup>310</sup>

If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the levies and rates to the statutory limits aforesaid (\$2 per \$100 in cities and towns and \$1.25 per \$100 in other places), then the auditor calculates and fixes the rates, so that the total tax rate on property within any municipal corporation does not exceed said limits, and certifies his action to each municipal corporation before October 6. Appeal

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<sup>306</sup> Acts 1937; Burns, 1939 suppl., 64-309; Baldwin, 1937 suppl., 15897-3.

<sup>307</sup> The term "municipal corporation" includes counties, townships, cities, towns school districts, sanitary districts, park districts, and all taxing units within the state. Acts 1937; Burns, 1939 suppl., 64-308; Baldwin, 1937 suppl., 15897-2.

<sup>308</sup> Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

<sup>309</sup> Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>310</sup> Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

to the state board of tax commissioners may be taken before October 16 by the municipal corporation or by 10 or more taxpayers. On the hearing of such appeals, the state board "may revise, change, or increase" the levy and rate in respect to total amounts budgeted by each office or department, and not as to detailed items. The levy and rate must be kept within the limit originally fixed by the municipal corporation. The state board certifies its decision to the county auditor before December 1, if possible. The budget, levy, and rate thereby fixed are final.<sup>311</sup>

After the budget, levy, and rate for each municipal corporation have been finally fixed and determined, as aforesaid, the appropriating body of each municipal corporation allocates the funds to be derived from such levy in such manner that the expenditures for the ensuing year will remain within the limitations as finally fixed in the manner stated in the two preceding paragraphs.<sup>312</sup>

If the county council determines that an emergency exists requiring expenditures for the current year not authorized by the budget as originally established, or as modified by the state board of tax commissioners, the council may make an additional appropriation and levy. The auditor then certifies the matter to the state board, and its decision thereon is final and conclusive.<sup>313</sup>

Between the 1st Monday in July and the last day of December, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the "tax duplicate." This contains several columns, and shows the names of taxpayers in alphabetical order, lands and improvements, mortgage deductions, corporate stock, personal property, valuations, poll tax, assessments of omitted property, land transfers since the last assessment, and all alterations in the assessment lists made by the board of review or the state board of tax commissioners. He numbers each original township, city, and town in regular progression, as the same shall stand entered on the duplicate, retaining the same number from year to year. On or before January 1 he delivers to the auditor of state a complete abstract of all property listed in each township, city, and town, showing valuations, mortgage

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<sup>311</sup> Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

<sup>312</sup> Acts 1937; Burns, 1939 suppl., 64-315; Baldwin, 1937 suppl., 15897-9.

<sup>313</sup> Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

deductions, number of polls, the amount of each kind of tax, the aggregate thereof in the county, and the rate of each kind assessed. A copy of the abstract is delivered to the treasurer, and another copy is kept by the county auditor.<sup>314</sup>

Property taxes for the state, county, township, city, and town purposes are payable to the county treasurer in two equal installments on or before the 1st Monday in May and the 1st Monday in November, respectively, in the year following the year for which the property was assessed. If any installment is not paid when it becomes due, such installment becomes delinquent, and a penalty of 8 percent of such installment is added. An additional penalty of 5 percent is added to any tax for each year the tax remains unpaid after the 1st Monday in November of the year in which the delinquency accrued.<sup>315</sup>

It is the duty of the county treasurer to collect all such property taxes after they become delinquent. He may levy on personal property at any time after the tax becomes delinquent, or before delinquency if he has good reason to believe the taxpayer is about to leave the county without payment, and sells the same after 10 days' notice of the time and place of sale. Suit to collect taxes may be brought by the prosecuting attorney in the name of the treasurer. Real estate may be sold at a tax sale on the 2d Monday in April, after advertisement, but not until 15 months have elapsed since delinquency. The purchaser of real estate at a tax sale receives from the auditor a tax certificate which describes the realty, states the amount paid by the purchaser, and states when a tax deed (to be executed by the auditor) may be obtained by the holder of the certificate.<sup>316</sup>

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<sup>314</sup> Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

<sup>315</sup> Acts 1919; Burns 64-1502; Baldwin 15748. Acts 1932 (Spec. Sess.); Burns 64-1508; Baldwin 15751. Acts 1935; Burns, 1939 suppl., 64-1542, 64-1544; Baldwin, 1935 suppl., 15765-1, 15765-3.

<sup>316</sup> Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1518, 64-1701 to 64-1705, 64-2001, 64-2201, 64-2203 to 64-2211; Baldwin 15772, 15778 to 15782, 15794, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807.

If a delinquent taxpayer has in the county personalty which is liable to pay his taxes, he may enjoin the sale of his realty for such delinquent taxes until such personalty is exhausted. *Bland v. Union Cent. Life Ins. Co.* (1935), 209 Ind. 84, 198 N. E. 78; *Weaver v. Kauffman* (1914), 57 Ind. App. 59, 106 N. E. 398.

"Taxes are not a lien upon personal property. They are the personal obligation of the taxpayer, and become a lien only when the property is levied upon. The lien created by the levy is like the lien created by a levy upon execution. It is junior and inferior to prior existing

The owner or occupant of any land sold for taxes, or any other person having an interest therein, may redeem the same at any time within 2 years after the sale and at any time thereafter before a tax deed is issued. Such deed may be issued by the auditor at any time between 2 and 4 years after the tax sale. The redeemer must pay to the treasurer the amount of taxes, penalties, and interest for which the property was sold (as shown in the tax certificate), plus a penalty based on a percentage of such amount (10 percent if redeemed within 6 months after the sale, 15 percent if redeemed 6 months to 1 year after the sale, or 25 percent if redeemed more than 1 year after the sale), plus the cost of the tax sale, plus any subsequent taxes paid by the certificate holder, plus interest on such subsequent taxes at the rate of 6 percent per annum. No interest on such subsequent taxes can accrue later than 2½ years after the tax sale. The money so received by the treasurer is paid by him to the holder of the redeemed tax certificate.<sup>317</sup>

Ordinarily real estate cannot be sold at a tax sale for less than the amount of the taxes under which the sale is made, plus penalties, interest, and the pro rata share of costs of sale, and such sale is made subject to all other taxes. Where real estate has been twice offered for sale at separate public tax sales and no sufficient bid as aforesaid has been made, the property will be sold at a later public tax sale to the highest bidder for cash (without minimum limitation); and in such case where the aggregate amount of all delinquent taxes equals or exceeds the last assessed valuation of the real estate, the successful purchaser is entitled to receive immediately a tax deed conveying the property free and clear of all taxes which became delinquent at least 15 months before the last sale.<sup>318</sup>

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liens." Held that a purchaser of personalty at a tax sale took title subject to a chattel mortgage recorded before the seizure to satisfy the tax. Voigt v. Ludlow Typograph Co. (1938), 213 Ind. 329, 12 N. E. (2d) 499.

<sup>317</sup> Acts 1919, 1931; Burns 64-2301, 64-2401, 64-2403; Baldwin 15819, 15832, 15811. Interview of January 22, 1940 with E. P. Brennan, state examiner.

Infants, idiots, and insane persons may redeem their lands within 2 years after expiration of disability. Acts 1919; Burns 64-2302; Baldwin 15820.

<sup>318</sup> Acts 1932 (Spec. Sess.); Burns 64-1509; Baldwin 15752. Acts 1919; Burns 64-1516, 64-2204; Baldwin 15759, 15809. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. *Opinions of the Attorney General of Indiana, 1938*, p. 255; *1939*, p. 211.

## EXCISE TAXES AND LICENSING

The tax on financial institutions is an excise tax<sup>319</sup> (in lieu of all other taxes) on banks, trust companies, and building and loan associations. It is administered by the county auditor and treasurer under the supervision of the state board of tax commissioners.<sup>320</sup>

The inheritance tax is an excise tax administered by the county assessor and treasurer, under the supervision of the state board of tax commissioners, and by the circuit court. A schedule must be filed with the court within 12 months after the decedent's death. Notice is given to the interested parties, the estate is appraised, and the court determines the amount of tax due. The court appoints the county assessor to act as the appraiser in every estate; and he appraises all property at the fair market value, as of the date of the transfer.<sup>321</sup> The appraiser makes his report in duplicate, one copy to the court and one to the state board of tax commissioners.<sup>322</sup> The treasurer collects the tax and issues a receipt in duplicate, one copy of which is sent to the state board; and no final accounting of an estate is made until such receipt is countersigned by that board.<sup>323</sup> The county treasurer must report quarterly to the auditor of state all inheritance taxes received by him. All such collected taxes are transmitted by the county treasurer, through a warrant issued by the county auditor, to the treasurer of state.<sup>324</sup> When directed by the court to do so, the prosecuting attorney sues to collect the tax.<sup>325</sup>

The intangible tax<sup>326</sup> is a stamp tax on notes, stocks, bonds, and other evidence of property interests or obligations for payment of money. This tax is administered by the county

<sup>319</sup> Lutz v. Arnold (1935), 208 Ind. 480, 193 N. E. 840.

<sup>320</sup> Acts 1933; Burns 64-801 to 64-834; Baldwin 15582 to 15615. *Opinions of the Attorney General of Indiana, 1939*, p. 252.

<sup>321</sup> Acts 1931, 1933; Burns 6-2408; Baldwin 15946. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945. *Opinions of the Attorney General of Indiana, 1939*, p. 326. "Inheritance Tax," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 32-39.

<sup>322</sup> Acts 1931; Burns 6-2410; Baldwin 15948.

<sup>323</sup> Acts 1931; Burns 6-2413; Baldwin 15951.

<sup>324</sup> Acts 1931; Burns 6-2414; Baldwin 15952.

Refunds of inheritance taxes. *Opinions of the Attorney General of Indiana, 1939*, p. 88.

<sup>325</sup> Acts 1931; Burns 6-2415; Baldwin 15953.

<sup>326</sup> The intangible tax is an excise tax. Lutz v. Arnold (1935), 208 Ind. 480, 193 N. E. 840.

assessor<sup>327</sup> and treasurer, under the supervision of the state board of tax commissioners. Stamps are issued by the state board and sold by the county treasurer.<sup>328</sup> The taxpayer is required to file with his tangible personal property schedule an affidavit showing that he has complied with the intangible tax law.<sup>329</sup> If the tax is not paid when due, it is entered on the tax duplicate of the county where the taxpayer resides or his property is located. Omitted property may be assessed by any officer of the county having authority under the general taxing laws to assess omitted property or by the state board of tax commissioners.<sup>330</sup> In case of nonpayment, suit for collection may be brought by the prosecuting attorney or the attorney general.<sup>331</sup>

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes each township assessor makes inquiry concerning dogs and kennels, collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The county auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.<sup>332</sup> The money so collected constitutes a fund known as the "dog fund" which is used to pay for damage to or loss of livestock caused by dogs. Dog funds exceeding \$100, over and above all warrants drawn on the same, in any township on the 1st Monday in March are transferred on the following Monday to townships in which the dog fund is less than the warrants drawn thereon.<sup>333</sup>

<sup>327</sup> Acts 1933; Burns 64-917; Baldwin 15915. Acts 1933, 1935; Burns, 1939 suppl., 64-906; Baldwin, 1935 suppl., 15904. "Valuation of Intangibles," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 39-53.

Mortgage which does not create a personal liability is subject to intangible tax. *Opinions of the Attorney General of Indiana, 1939*, p. 222.

<sup>328</sup> Acts 1933; Burns 64-924, 64-927; Baldwin 15922, 15925.

<sup>329</sup> Acts 1933; Burns 64-918; Baldwin 15916.

<sup>330</sup> Acts 1933, 1935; Burns, 1939 suppl., 64-915; Baldwin, 1935 suppl., 15913.

<sup>331</sup> Acts 1933; Burns 64-921; Baldwin 15919.

<sup>332</sup> Acts 1937; Burns, 1939 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

<sup>333</sup> Acts 1937; Burns, 1939 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8 to 3811-10.

Dog tax is for protection of property, not to provide revenue for public purposes. Excess funds in the county must be paid to the auditor of state in accordance with the 1937 law, not to schools under the 1929 law. *Finerty v. State ex rel. School City of Gary* (1938), 213 Ind. 470, 12 N. E. (2d) 941.

The clerk of the circuit court issues licenses for marriages.<sup>334</sup> physicians, surgeons,<sup>335</sup> midwives,<sup>336</sup> osteopaths,<sup>337</sup> chiropractors, drugless healers,<sup>338</sup> dentists,<sup>339</sup> optometrists,<sup>340</sup> hunting, trapping, fishing,<sup>341</sup> poultry dealers,<sup>342</sup> and junk dealers.<sup>343</sup> He registers certificates of trained nurses.<sup>344</sup> Formerly he issued liquor licenses,<sup>345</sup> brokers' licenses,<sup>346</sup> licenses for veterinarians,<sup>347</sup>

<sup>334</sup> Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852, Acts 1939; Burns, 1939 suppl., 44-201; Baldwin, 1939 suppl., 5622.

The judge of the circuit court may waive certain provisions of the law requiring laboratory tests and medical certificates. Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Injunction to prevent illegal issuance of license. Sweigart v. State (1938), 213 Ind. 157, 12 N. E. (2d) 134.

Common law marriage. Young v. General Baking Co. (1938), 104 Ind. App. 658, 12 N. E. (2d) 1016.

Ratification of void ceremonial marriage by living together after removal of disability of party. Eddington v. Eddington (1938), 213 Ind. 347, 12 N. E. (2d) 758.

<sup>335</sup> Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

<sup>336</sup> Acts 1897; Burns 63-1309; Baldwin 10709.

<sup>337</sup> Acts 1901; Burns 63-1316; Baldwin 10716.

<sup>338</sup> Acts 1927; Burns 63-1312; Baldwin 10713.

<sup>339</sup> Acts 1899, ch. 211, secs. 5, 7 to 11. Acts 1913, 1931, 1935; Burns, 1939 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

<sup>340</sup> Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1939 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

<sup>341</sup> Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1939 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the Acts 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

<sup>342</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

<sup>343</sup> Acts 1905; Burns 42-703; Baldwin 10462.

<sup>344</sup> Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

<sup>345</sup> This duty existed from the organization of the county until 1841 and from 1917 to 1933. Acts 1816-17, ch. 15, sec. 6. Acts 1817-18 (general), ch. 47, secs. 1, 2. Acts 1820-21, ch. 36, secs. 1, 2. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6. Rev. Stat. 1838, ch. 21, sec. 6; ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Acts 1917, ch. 4, secs. 6, 7, 12. Acts 1925, ch. 48, secs. 10, 11. Acts 1933, ch. 79, sec. 1.

<sup>346</sup> Acts 1840-41 (general), ch. 5, sec. 18.

<sup>347</sup> Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

stallions,<sup>348</sup> and petty money lenders,<sup>349</sup> and kept a register of certificates of agents of foreign insurance companies.<sup>350</sup>

The judge of the circuit court has authority to issue licenses to carry pistols. When the judge grants an application for such license, he usually orders the clerk of the circuit court to issue the license; and in issuing such licenses the clerk acts for the judge.<sup>351</sup> The sheriff issues licenses for the retail sale of pistols.<sup>352</sup>

The county auditor issues licenses for peddlers, shows, theaters,<sup>353</sup> transient merchants,<sup>354</sup> public warehouses,<sup>355</sup> and ferries.<sup>356</sup> He issued liquor licenses before 1917.<sup>357</sup>

<sup>348</sup> Acts 1839, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

<sup>349</sup> Acts 1913, ch. 167, secs. 1 to 4 (repealed by Acts 1917, ch. 125, sec. 6).

<sup>350</sup> Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

<sup>351</sup> Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21). Acts 1935, 1937; Burns, 1939 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5. *Opinions of the Attorney General of Indiana, 1937*, p. 242.

<sup>352</sup> Acts 1935, 1937; Burns, 1939 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the superintendent of the state police. *Ibid.*

<sup>353</sup> Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443. 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1901; Burns 42-502, 42-503; Baldwin 10470-1, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

<sup>354</sup> Acts 1901; Burns 42-402; Baldwin 10491.

The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

<sup>355</sup> Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

<sup>356</sup> Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 17, secs. 1-23. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443.

<sup>357</sup> Rev. Stat. 1838, ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 8, sec. 3; ch. 20, secs. 7, 14; ch. 92, sec. 1. Acts 1853, ch. 66, secs. 1-4. Acts 1855, ch. 105, secs. 4-8; ch. 106, secs. 1, 2. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 28; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

The board of commissioners authorizes the issuance of ferry licenses,<sup>358</sup> and before 1917 authorized the issuance of liquor licenses.<sup>359</sup>

#### FEES

The laws provide for the charging of fees by various county officials. Salaried officials cannot disburse their fees for office expense, or retain the fees or interest thereon as compensation, unless a statute enacted since 1932 specifically authorizes them to do so. Such fees must be paid into the county treasury. An officer cannot draw any salary while illegally withholding fees.<sup>360</sup>

County officials may charge and collect only such fees as are allowed by statute.<sup>361</sup> If an officer collects illegal fees, the county cannot recover them from him, since they belong to the person paying the same.<sup>362</sup> If the officer unlawfully refuses to pay over fees collected by him, an action lies on his bond;<sup>363</sup> and if he pays over fees which he is entitled to retain, he may sue to recover the same.<sup>364</sup>

<sup>358</sup> Acts 1807, ch. 33 (misnumbered 31), secs. 1, 6; ch. 51, sec. 14. Acts 1816-17, ch. 29, sec. 2. Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Rev. Stat. 1843, ch. 17, secs. 1-23. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443.

<sup>359</sup> Acts 1807, ch. 17, secs. 1, 4. Acts 1813, ch. 3, sec. 2. Acts 1817-18 (general), ch. 47, secs. 1, 2. Rev. Stat. 1838, ch. 105, secs. 1-10. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92, sec. 1. Acts 1853, ch. 66, sec. 8. Acts 1855, ch. 105, secs. 4-8; ch. 106, sec. 4. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 28; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

<sup>360</sup> Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1895; Burns 49-1410; Baldwin 7585. Keifer v. Summers (1894), 137 Ind. 106, 35 N. E. 1103; Applegate v. State *ex rel.* Pettijohn (1933), 205 Ind. 122, 185 N. E. 911; Board of County Comrs. v. Lewis (1924), 81 Ind. App. 601, 144 N. E. 623.

<sup>361</sup> Noble v. Board of County Comrs. (1885), 101 Ind. 127; Legler v. Paine (1896), 147 Ind. 181, 45 N. E. 604.

<sup>362</sup> State *ex rel.* Board of County Comrs. v. Williams (1906), 39 Ind. App. 376, 77 N. E. 1137.

<sup>363</sup> Acts 1883; Burns 49-142; Baldwin 13094. Workman v. State *ex rel.* Board of County Comrs. (1905), 165 Ind. 42, 73 N. E. 917.

<sup>364</sup> Board of County Comrs. v. Crone (1905), 36 Ind. App. 283, 75 N. E. 826.

All officers are required to keep complete records of all fees received from any source whatever. Such records are subject to public inspection at any time, and must be examined by the board of commissioners at their meetings.<sup>365</sup>

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.<sup>366</sup> The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for 2 years. The auditor enters such lists in the order book (commonly called the "Commissioners' Record") of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the county treasurer.<sup>367</sup>

#### FUNDS RECEIVED FROM THE STATE

The counties receive from the state a portion of the funds in the motor vehicle highway account of the state. This account is composed of excise taxes on motor vehicle fuel, motor vehicles, operators, and chauffeurs.<sup>368</sup> The portion allotted to the counties is distributed on the basis of vehicular miles of county roads in each county as compared with the total in all counties. The 1937 law recites that there are 26,857 miles in Morgan County and 4,536,856 miles in all of the counties, but provision is made for a recount by the state highway commission and a change in allocation based thereon.<sup>369</sup> Such funds are used by the county for construction and maintenance of county roads; and 20 percent of such funds may be used to pay off outstanding county unit road bonds.<sup>370</sup>

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<sup>365</sup> Acts 1895; Burns 49-1401, 49-1409; Baldwin 7576, 7584. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443. Acts 1909; Burns 60-213; Baldwin 13864.

<sup>366</sup> Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

<sup>367</sup> Acts 1841-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

<sup>368</sup> Acts 1937; Burns, 1939 suppl., 36-2801; Baldwin, 1937 suppl., 8695-1.

<sup>369</sup> Acts 1937; Burns, 1939 suppl., 36-2803; Baldwin, 1937 suppl., 8695-8.

<sup>370</sup> Acts 1937, 1939; Burns, 1939 suppl., 36-2804 to 36-2806; Baldwin, 1939 suppl., 8695-4; Baldwin, 1937 suppl., 8695-5, 8695-6.

The counties receive from the state a portion of the license fees on liquor dealers. Distribution of such portion among the counties is based on the amount paid in for licenses with respect to dealers' premises located outside cities and towns in each county, as compared with the total for such areas in all counties.<sup>371</sup>

Each county receives from the state, as reimbursement, about 81 percent of the money spent by the county for welfare assistance.<sup>372</sup>

The counties receive a portion of the intangible tax. Distribution of such portion among the counties is based on the assessed valuation of the real property in each county, as compared to the total in all counties. One-fourth of the amount received by the county goes into the general fund of the county; and the remainder goes to the school funds of the township, city, and town taxing units within the county, on a basis of valuation of the real property in each unit.<sup>373</sup> School funds are discussed hereinafter under the heading "Education."

#### CLAIMS AND ALLOWANCES

Claims against the county, duly itemized and verified, in writing on forms furnished by the board of commissioners, may be filed with the auditor, who places them on the claim docket and thereafter presents them to the board for decision. At a regular or special session of the board of commissioners, beginning at least 5 days after the docketing of the claim and 3 days after publication of notice by the auditor, the commissioners must examine the merits of the claim and may, in their discretion, allow it, in whole or in part, as they find it to be just and owing.<sup>374</sup> The board cannot allow a claim that it previously disallowed.<sup>375</sup>

A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing

<sup>371</sup> Acts 1935, 1937, 1939; Burns, 1939 suppl., 12-505, 12-811; Baldwin, 1939 suppl., 3764-7, 3764-40 (f).

<sup>372</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1405, 52-1412; Baldwin, 1937 suppl., 14078-117, 14078-124. Interview of March 31, 1939 with Frank G. Thompson, auditor of state.

<sup>373</sup> Acts 1933; Burns 64-922; Baldwin 15920.

<sup>374</sup> Acts 1899; Burns 26-538, 26-804; Baldwin 5403, 5256. Acts 1879 (Spec. Sess.); Burns 26-805, 26-807; Baldwin 5256. Acts 1897; Burns 26-806, 26-809; Baldwin 5260, 5257. Acts 1931; Burns 26-816 to 26-819; Baldwin 5268 to 5271.

<sup>375</sup> Myers v. Gibson (1899), 152 Ind. 500, 53 N. E. 646.

that the goods mentioned in the claim correspond in quality and prices with the contract.<sup>376</sup> A claim on a contract for work to be conducted under the supervision of the county surveyor, or any architect, engineer, superintendent, or inspector appointed by the board of commissioners, must be accompanied by a certificate of the surveyor or such agent, showing that the work therein mentioned was performed according to contract and that the amount claimed is due and owing by the terms of the contract.<sup>377</sup> A claim based on a judgment or order of a court must be accompanied by a certified copy of such judgment or order.<sup>378</sup>

For the amount allowed by the board of commissioners, the auditor, after appropriation by the county council, issues a warrant which is countersigned by the treasurer and paid by the treasurer or a public depository designated thereon by him.<sup>379</sup> An allowance not called for within 5 years may be canceled.<sup>380</sup> Preference in payment is given to claims for money advanced by any county officer for the use of the county pursuant to provisions of law or of any order of the board.<sup>381</sup> However, no allowance can be made by the board of commissioners to one of its members for articles furnished by him to the county under a contract or otherwise.<sup>382</sup>

Any person feeling aggrieved by any decision of the board on any claim may appeal to the circuit court. In case of disallowance in whole or in part, the claimant may appeal as aforesaid or bring an independent suit against the board. The claimant must pay the costs of the appeal if he does not recover more on the appeal than was allowed by the board.<sup>383</sup> No complaint other than the claim (including certificates and exhibits, if any) presented to the board is required on appeal.<sup>384</sup> If the board allows only a part of the claim, and the claimant accepts payment of the amount allowed, he cannot bring suit for the remainder.<sup>385</sup>

<sup>376</sup> Acts 1899; Burns 26-538; Baldwin 5403.

<sup>377</sup> Acts 1899; Burns 26-539; Baldwin 5404.

<sup>378</sup> Acts 1911; Burns 26-814; Baldwin 5265.

<sup>379</sup> Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

<sup>380</sup> Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

<sup>381</sup> 1 Rev. Stat. 1852; Burns 26-802; Baldwin 5252.

<sup>382</sup> Waymire v. Powell (1886), 105 Ind. 328, 4 N. E. 886.

<sup>383</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

<sup>384</sup> Board of County Comrs. v. Wertz (1887), 112 Ind. 268, 13 N. E. 874.

<sup>385</sup> Western Constr. Co. v. Board of County Comrs. (1912), 178 Ind. 684, 98 N. E. 347.

In pursuance of appropriations by the county council,<sup>386</sup> the judge of the circuit court may make allowances against the county for expense of administration of justice.<sup>387</sup> Such allowances include compensation of witnesses,<sup>388</sup> jurors,<sup>389</sup> master commissioners,<sup>390</sup> sheriff,<sup>391</sup> bailiffs,<sup>392</sup> court reporter,<sup>393</sup> page,<sup>394</sup> and attorneys appointed to represent poor persons.<sup>395</sup>

Within 10 days after adjournment of the session of the board of commissioners or of the circuit court, at which allowances against the county are made, the auditor publishes notice showing all allowances made by the board or court. A warrant on an allowance by a court cannot be issued until 3 days after such publication.<sup>396</sup>

#### CUSTODY AND DISBURSEMENT OF FUNDS

The treasurer receives all money coming to the county, and disburses it on proper warrants (formerly called orders) issued by the auditor and countersigned by the treasurer.<sup>397</sup>

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.<sup>398</sup> The board designates depositories for public funds, after inviting and receiving proposals from banks and trust companies.

<sup>386</sup> Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

<sup>387</sup> Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

<sup>388</sup> 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

<sup>389</sup> Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

<sup>390</sup> Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

<sup>391</sup> Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

<sup>392</sup> Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496.

*Opinions of the Attorney General of Indiana, 1939*, p. 312.

<sup>393</sup> Acts 1921, 1939; Burns, 1939 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300.

<sup>394</sup> *Opinions of the Attorney General of Indiana, 1939*, p. 312.

<sup>395</sup> Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2235. *Opinions of the Attorney General of Indiana, 1939*, p. 351.

<sup>396</sup> Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817; Baldwin 5269.

<sup>397</sup> Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. 1 Rev. Stat. 1852; Burns 49-3103; Baldwin 5550. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 18844-48.

<sup>398</sup> Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

The commission of a depository may be revoked by the board at any time.<sup>399</sup> The resignation of a depository becomes effective 30 days after notice thereof to the board.<sup>400</sup> Monthly statements are furnished by the depository to the board on or before the 5th day of each month, and are preserved in the office of the board.<sup>401</sup> All public funds paid into the county treasury must be deposited by the treasurer daily, in the name of the county, in one or more of such designated depositories. On or before the 5th day of each month, the treasurer must file with the secretary of the board a statement of the balance of funds at the end of the previous month, consistent with the statement furnished by the depository.<sup>402</sup> The treasurer deposits quarterly with the auditor all redeemed warrants.<sup>403</sup>

When the auditor draws a warrant, he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.<sup>404</sup> Records of the warrants are kept in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.<sup>405</sup> The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.<sup>406</sup> Before issuing a warrant or quietus, the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.<sup>407</sup>

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<sup>399</sup> Acts 1937; Burns, 1939 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

<sup>400</sup> Acts 1937; Burns, 1939 suppl., 61-640; Baldwin, 1937 suppl., 13844-61.

<sup>401</sup> Acts 1937; Burns, 1939 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

<sup>402</sup> Acts 1937; Burns, 1939 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

Defunct depositories. *Opinions of the Attorney General of Indiana, 1939*, p. 247.

<sup>403</sup> 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>404</sup> Acts 1899; Burns 26-554; Baldwin 5409.

<sup>405</sup> 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Interview of August 15, 1939 with E. P. Brennan, state examiner.

<sup>406</sup> 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

<sup>407</sup> Acts 1909; Burns 60-215; Baldwin 13866.

On claims (including claims on judgments) allowed by the board of commissioners, and on allowances made by courts for the cost of administration of justice, the auditor issues his warrant. But a warrant may be issued to pay a judgment, or for expenses of insanity inquests or management of the school funds, or for salaries or other liabilities for specific amounts fixed by law, when no allowance has been made as aforesaid.<sup>408</sup> Warrants not called for within 5 years after the allowance of the claims on which they were drawn may be canceled by the board of commissioners, if not called for after publication of notice.<sup>409</sup>

Warrants drawn by the auditor on the treasurer must be accompanied by a carbon copy thereof, except in the case of state and township funds. If funds are available to pay the warrant, the treasurer, on presentation to him, detaches and retains the carbon copy, and countersigns the original and stamps thereon the name of the depository by which it is payable. The original warrant is delivered to the payee, and the amount thereof is paid to the payee by the depository on presentation and surrender of the warrant. For the convenience of the payee, the treasurer may pay cash to the holder, on taking an assignment of the warrant, in which event such warrant will be deposited by the treasurer in the depository in lieu of cash.<sup>410</sup> The treasurer must deduct any delinquent taxes owing by the payee.<sup>411</sup> If no funds are available to pay the warrant, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment; and thereafter the warrant draws legal interest. Interest ceases when funds become available for payment and the treasurer or auditor publishes a call for redemption.<sup>412</sup> Outstanding warrants are redeemed by the treasurer according to priority of time of presentment. Such warrants must be received in payment of county taxes without regard to such priority.<sup>413</sup>

<sup>408</sup> Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

<sup>409</sup> Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

<sup>410</sup> 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

<sup>411</sup> Acts 1919; Burns 64-1506; Baldwin 15768.

<sup>412</sup> Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

<sup>413</sup> 1 Rev. Stat. 1852; Burns 49-3113; Baldwin 5560.

When the treasurer redeems a warrant on which interest is due, he makes a notation thereon, and also in his account, showing the amount of interest paid.<sup>414</sup>

Every public officer who receives or distributes public funds must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be kept open to public inspection.<sup>415</sup> The treasurer keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds. Current taxes are not entered on his account with the county until after his annual statement.<sup>416</sup> At the end of March, June, September, and December, the treasurer makes out a report showing the amount of money in the county treasury and each distinct fund thereof. The report is examined by the board of commissioners at its next regular session.<sup>417</sup>

The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payer with the auditor, who gives a quietus for the same.<sup>418</sup>

The board of commissioners, at its first regular session each year, makes out a statement of the receipts and expenditures for the previous calendar year, and causes it to be published and posted.<sup>419</sup> The treasurer makes complete settlements with the board of commissioners at its January session each year.<sup>420</sup> Settlements by the board of commissioners are not binding on the county where the officer has failed to account for any money received by virtue of his office or failed to perform any duty required of him by law.<sup>421</sup>

<sup>414</sup> 1 Rev. Stat. 1852; Burns 49-3112; Baldwin 5559.

<sup>415</sup> Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

<sup>416</sup> 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

<sup>417</sup> Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

<sup>418</sup> 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3104; Baldwin 5551.

<sup>419</sup> Acts 1899; Burns 26-546; Baldwin 5411.

<sup>420</sup> Acts 1899; Burns 26-531; Baldwin 5395.

Formerly the settlement was made in June. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

The state board of accounts now requires that settlements be recorded in the monthly balance record of the auditor and treasurer. Interview of May 18, 1939 with E. P. Brennan, state examiner.

Formerly the settlements were recorded in the order book (commonly called the "Commissioners' Record") of the board of commissioners. Acts 1899; Burns 26-531; Baldwin 5395.

<sup>421</sup> Acts 1879 (Spec. Sess.); Burns 26-637; Baldwin 5341.

All taxes collected by the treasurer must be deposited in the depository as one fund, except when otherwise provided by law. Semiannually the treasurer settles with the state and the municipal corporations within the county for taxes collected for them. Before such settlements, he advances not exceeding 80 percent when request by the proper officer is made to the auditor and a warrant is drawn by him.<sup>422</sup>

From time to time without notice, the books and accounts of county officers are audited by the state examiner. Before 1909 the judge of the circuit court examined the office of the clerk of the circuit court and reported thereon to the board of commissioners; and the board of commissioners examined other county offices.<sup>423</sup>

#### PUBLIC DEBT

The present constitution provides that the total amount of the county debt shall not exceed 2 percent of the value of the taxable property therein,<sup>424</sup> and a statute provides that such debt shall not exceed 2 percent of the taxable property less the total of all mortgage exemptions.<sup>425</sup>

The borrowing of money for the county must be authorized by ordinance of the county council.<sup>426</sup> The notes, bonds, or other evidence of indebtedness are executed by the county commissioners and attested by the auditor.<sup>427</sup> The obligations may bear interest at a rate not exceeding 6 percent per annum. If the interest rate exceeds 5 percent the issuance must be approved by the state board of tax commissioners.<sup>428</sup> The

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<sup>422</sup> Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

<sup>423</sup> 1 Rev. Stat. 1852; Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236; Acts 1897; Burns 26-636; Baldwin 5237. 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909, 1915; Burns 60-201, 60-211; Baldwin 13854, 13862. *Opinions of the Attorney General of Indiana*, 1939, p. 184. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>424</sup> Const. 1851, art. 13, sec. 1. Exception is made in case of war, foreign invasion, or other public calamity. *Ibid.*

Bonds for construction of an interstate bridge, payable only from proceeds of bridge tolls, held not a debt within the meaning of this constitutional provision. Same ruling as to costs of highway maintenance. *Bennett v. Spencer County Bridge Commission* (1936), 213 Ind. 520, 13 N. E. (2d) 547.

<sup>425</sup> Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

<sup>426</sup> *Ibid.*

<sup>427</sup> Acts 1899, 1921; Burns 26-540; Baldwin 5405.

<sup>428</sup> Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

council may provide for maturities at any time not exceeding 52 years from issuance.<sup>429</sup>

The bonds are issued after publication of notice, and must be sold for an amount not less than par value and accrued interest. If the amount of the bond issue is to exceed \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified to the state board of tax commissioners for hearing and disposition.<sup>430</sup>

Temporary loans may be authorized to meet current running expenses to an amount not exceeding the revenue for the current year, and only as an anticipation of such revenue. It is the duty of the county council each year to levy an annual tax to pay all such temporary loans.<sup>431</sup>

The county council must make a levy of not less than one-tenth of 1 percent on the taxable property of the county each year, for the purpose of retiring bonds previously issued; and the taxes collected therefrom must be invested in these bonds or other county securities, and shall constitute a sinking fund for the ultimate liquidation of such debt.<sup>432</sup> The council must also levy each year a tax sufficient to pay interest for the year on bonds previously issued. If more taxes are collected under this levy than are needed to pay interest, such excess goes into the sinking fund to pay the principal.<sup>433</sup>

#### ELECTIONS

In Indiana there are three types of elections: Primary; special; and general. Primary elections are for the purpose of nominating party candidates for all offices (other than those to be voted on by the entire electorate of the state) and electing precinct committeemen and delegates to state conventions of political parties. The primary election is mandatory for each political party in the state casting for its candidate for secretary of state 10 percent or more of the aggregate vote cast for all candidates for secretary of

<sup>429</sup> Acts 1899, 1921, 1929; Burns 26-532, 61-401; Baldwin 5396, 13896.

<sup>430</sup> Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

<sup>431</sup> Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

<sup>432</sup> Rev. Stat. 1852, Acts 1859; Burns 26-1006; Baldwin 5247. Acts 1899; Burns 26-515; Baldwin 5379.

<sup>433</sup> Rev. Stat. 1852; Burns 26-1007; Baldwin 5248.

state in the last general election.<sup>434</sup> Special elections are held to fill vacancies in the United States Congress, the Indiana General Assembly, in offices required to be filled by special election, and in all offices in case of a tie vote. They are ordered by the governor, announced by the sheriff, and conducted in the manner in which general elections are conducted.<sup>435</sup> The general election, held biennially, is for the purpose of filling all existing vacancies in office, and all offices the terms of which will expire before the next general election thereafter.<sup>436</sup>

Primary elections are held on the 1st Tuesday after the 1st Monday in May preceding the general elections.<sup>437</sup> They are held under the supervision of the board of primary election commissioners, consisting of the clerk of the circuit court and 2 persons (of opposite political parties nominated by their respective county chairmen) appointed by him. This board prepares and distributes ballots for the primary elections,<sup>438</sup> and serves as the county board of election commissioners at the next general election.<sup>439</sup>

Primary elections are conducted by the following officials for each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one poll-book holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote for secretary of state at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriffs and pollbook holders are appointed in the manner in which they are appointed for general elections.<sup>440</sup>

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<sup>434</sup> Acts 1915; Burns 29-501; Baldwin 7187.

<sup>435</sup> Acts 1881 (Spec. Sess.); Burns 29-1701 to 29-1704; Baldwin 7246 to 7249.

<sup>436</sup> Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

<sup>437</sup> Acts 1915, 1917; Burns 29-508; Baldwin 7194.

<sup>438</sup> Acts 1907, ch. 282, secs. 1, 13. Acts 1915, 1917; Burns 29-504; Baldwin 7190. See the essay entitled "Board of Primary Election Commissioners."

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." *State ex rel. Marion County Democratic Committee v. Marion Superior Court* (1938), 214 Ind. 322, 15 N. E. (2d) 379.

<sup>439</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

<sup>440</sup> Acts 1915, 1917; Burns 29-505, 29-507; Baldwin 7191, 7193.

General elections are held biennially on the 1st Tuesday after the 1st Monday in November of even-numbered years.<sup>441</sup> County officers elected by the people are county commissioners, county councilmen, judge and clerk of the circuit court, auditor, treasurer, sheriff, coroner, recorder, prosecuting attorney, surveyor, and county assessor. These elections are held under the supervision of the county board of election commissioners, which prepares and distributes the ballots therefor.<sup>442</sup>

For a general election the county board of election commissioners appoints the election officials for each precinct, namely, one election inspector, two election judges, two poll clerks (and two assistant poll clerks if necessary), and two election sheriffs. The election inspector and election judges constitute the precinct board of election. The other precinct officials assist this board in conducting the general election. The election judges, poll clerks, and election sheriffs must be qualified voters of opposite political faith. They are nominated by the chairmen of their respective county central committees. The inspector and judges must have been freeholders and resident householders of the precinct for at least 1 year, or resident householders therein for at least 2 years preceding the election, unless persons having these qualifications are not available. The inspector of elections is nominated by the chairman of the party casting the highest number of votes in the county in the last election for secretary of state. The township trustee serves as the election inspector in the precinct in which he resides. Each party may appoint one challenger and one pollbook holder in each precinct to represent that party in the challenge of voters.<sup>443</sup>

The constitution provides that all elections shall be "free and equal," prescribes the length of residence required of an elector, designates the time of holding elections, and gives the legislature power to provide for the registration of voters.<sup>444</sup>

All voters at general and special elections must be duly

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<sup>441</sup> Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

<sup>442</sup> Acts 1889; Burns 29-1002; Baldwin 7109. See the essay entitled "County Board of Election Commissioners."

<sup>443</sup> Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

<sup>444</sup> Const. 1851, art. 2, secs. 1, 2, 14.

registered for voting;<sup>445</sup> must be citizens of the United States; must be of the age of 21 years and upwards at the time of the election; and must have resided in the state 6 months, in the township 60 days, and in the ward or precinct 30 days, immediately preceding the election. Any person who has these qualifications may vote at the primary election next preceding the general or special election. If he is not so qualified at the time of the primary election but will be so qualified at the time of the general or special election, he may vote in the primary election on making an affidavit in the form required by law for such voters.<sup>446</sup> Soldiers, sailors, and marines acquire no residence in the state for voting purposes by virtue of being stationed therein.<sup>447</sup> The registration officer (the clerk of the circuit court ex officio) conducts the registration of voters.<sup>448</sup>

The board of county commissioners participates in various ways in the conduct of elections. The more important functions of the board in that connection are those of establishing election precincts and changing their boundaries;<sup>449</sup> providing rooms for polling places and equipping them with voting booths and ballot boxes;<sup>450</sup> and the purchase of voting machines (when permissive) for the several precincts.<sup>451</sup>

Any qualified and registered elector of the county, who by reason of the nature of his business is absent or expects to be absent from the county on the day of holding an election, may vote by an absent-voter's ballot which he, by mail or in person, procures from the clerk of the circuit court.<sup>452</sup>

The board of canvassers (consisting of the election commissioners,<sup>453</sup> with the clerk of the circuit court acting as

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<sup>445</sup> Acts 1933; Burns 29-301; Baldwin 7299. See the essay entitled "Registration Officer."

<sup>446</sup> U. S. Const., amend. 19. U. S. C., title 8, sec. 31 (law of 1870). Const. 1851, art. 2, sec. 2 (as amended in 1921). Acts 1915, 1917; Burns 29-510; Baldwin 7196. Acts 1881 (Spec. Sess.); Burns 29-703; Baldwin 7083. Kelso v. Cook (1916), 184 Ind. 173, 110 N. E. 987.

<sup>447</sup> Const. 1851, art. 2, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-705; Baldwin 7085.

<sup>448</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

<sup>449</sup> Acts 1933; Burns 29-319; Baldwin 7317. Acts 1889, 1907; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

<sup>450</sup> Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

<sup>451</sup> Acts 1939; Burns, 1939 suppl., 29-562; Baldwin, 1939 suppl., 7245-1. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

<sup>452</sup> Acts 1935; Burns, 1939 suppl., 29-2601 to 29-2623; Baldwin, 1935 suppl., 7348-1 to 7348-23.

<sup>453</sup> Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

clerk)<sup>454</sup> tabulates and compiles the election returns of the county, and files all data, canvass sheets, certificates, poll-books, and tally papers in the office of the clerk, and certifies the candidates elected.<sup>455</sup> At each place of canvassing ballots cast at a general election, each of the four major political parties is entitled to have one watcher present during the canvassing.<sup>456</sup> Every political party represented at a primary election is entitled to similar watchers at the canvassing of ballots cast at that election.<sup>457</sup>

Recount of ballots must be ordered by the circuit court if a petition and cost bond therefor are presented by a defeated candidate within 12 days after the election. Such recount is made by commissioners appointed by the court, and it supersedes the certificate of the county board of canvassers. Thereafter the court hears the contentions of the parties and determines the result of the election.<sup>458</sup>

Each candidate for public office must file with the clerk of the circuit court, within 30 days after the election (general, special, or primary), a sworn statement setting forth his election expenses and promises. Failure to file such statement is a criminal offense and disqualifies the candidate from holding the office sought by him in such election.<sup>459</sup>

## EDUCATION

### FUNDS

The public school system of Indiana was provided for by the Ordinance of 1787.<sup>460</sup> In 1816 the Congressional Township fund was provided for the development of the public school system. The fund was composed of the moneys arising from the sale and leasing of lands of section 16 of each Congressional

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<sup>454</sup> Acts 1905; Burns 29-1402; Baldwin 7378.

<sup>455</sup> Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381.

Duty to disregard all improperly marked ballots. *Craney v. Traylor* (1938), 214 Ind. 542, 16 N. E. (2d) 845.

<sup>456</sup> Acts 1897, 1901, 1909; Burns 29-1301; Baldwin 7147.

<sup>457</sup> Acts 1915; Burns 29-527; Baldwin 7213. Acts 1931; Burns 29-528; Baldwin 7214. Acts 1939; Burns, 1939 suppl., 29-569; Baldwin, 1939 suppl., 7245-8.

<sup>458</sup> Const. 1851, art. 2, sec. 14 (as amended in 1881). Acts 1915, 1917, 1925, 1929; Burns 29-511; Baldwin 7196. Acts 1933, 1935; Burns, 1939 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan* (1938), 214 Ind. 279, 15 N. E. (2d) 384.

<sup>459</sup> Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445.

<sup>460</sup> Ordinance of 1787, art. 3; U. S. Stat. 1:52 note.

Township.<sup>461</sup> This fund was not handled efficiently before 1851.<sup>462</sup> Interest in education grew slowly before 1849. In that year the first tax law for the support of schools was passed.<sup>463</sup> It was not until after the adoption of the Constitution of 1851 and the passage of the school law of 1852 that education received any effective attention from the state.<sup>464</sup> The school law of 1865 brought the most complete revision.<sup>465</sup> The constitution provides that the general assembly shall encourage and provide for a general and uniform system of common schools.<sup>466</sup>

The Constitution of 1851 established the common school fund composed of: The Congressional Township fund and the lands belonging thereto; the surplus revenue fund; the bank tax fund; the saline fund and the lands belonging thereto; the funds to be derived from the sale of county seminaries, and the moneys and properties previously held for such seminaries; fines and forfeitures; decedents' estates escheated to the state for want of heirs; taxes on the property of corporations which may be assessed by the general assembly for common school purposes; and all lands granted to the state without designation of purpose, and the proceeds of sale thereof (including the proceeds of sale of swamplands granted in 1850, less the expense of selection and drainage).<sup>467</sup>

The Constitution of 1851 further provided that the principal of the common school fund must remain a perpetual fund and be invested so that it may increase but never diminish; and that the interest earned by the fund may be expended for the support of the common schools and for no other purpose. The general assembly was required to invest all funds that were not already under the supervision of the counties, and was directed to provide laws for the distribution of the interest to the counties.<sup>468</sup>

<sup>461</sup> U. S. Stat. 3:289 (law of 1816).

<sup>462</sup> Logan Esarey, *History of Indiana* (1924), 2:679, sec. 122.

<sup>463</sup> Acts 1848-49 (general), ch. 116, sec. 1. Fassett A. Cotton, *Education in Indiana* (Bluffton, Indiana, 1934), 10.

<sup>464</sup> Const. 1851, art. 8. 1 Rev. Stat. 1852, ch. 98.

<sup>465</sup> Acts 1865; Burns 28-101; Baldwin 6499.

<sup>466</sup> Const. 1851, art. 8, sec. 1.

<sup>467</sup> Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101; Baldwin 6499.

Fines for contempt of court go into the common school fund. *Swift v. State ex rel. Clark* (1878), 63 Ind. 81.

Swamplands granted to state. U. S. Stat. 9:519 (law of 1850).

<sup>468</sup> Const. 1851, art. 8, secs. 3-5. Acts 1865; Burns 28-101; Baldwin 6499. Acts 1907; Burns 28-102; Baldwin 6500.

The school funds managed by the county are kept by the county auditor in three separate funds: (a) The common school fund; (b) the Congressional Township fund; and (c) the permanent endowment fund of Indiana University. The latter fund was derived from a tax levy of one-half of 1 cent on each \$100 of taxable property for the years 1883 through 1895, and was distributed among the several counties according to population. Loans from these three funds are made by the county school fund board. Each county is held liable for the preservation of the funds entrusted to it, and for the payment of the annual interest. The interest on the common school fund and the Congressional Township school fund is paid into the state treasury and is thereafter distributed among the several counties on the basis of average daily attendance of school children therein, to be used for the support of the common schools. Morgan County (including Martinsville and Mooresville) received \$6.558.81 for the school year 1938-39 from this source. The interest on the permanent endowment fund of Indiana University is paid to the state treasurer, and he pays it to the trustees of Indiana University.<sup>469</sup>

The interest on the school funds aforesaid is supplemented by other funds provided by the general assembly for the public schools. From the general fund, the state supplies the county with tuition support of not less than \$700 annually for each teaching unit of 35 pupils in average daily attendance in grades 1 to 8, and for each unit of 25 pupils in average daily attendance in grades 9 to 12. This fund is known as the "school tuition support fund."<sup>470</sup> The total amount received by Morgan County (including Martinsville and Mooresville) from this source during the school year 1938-39 was \$90,676.14.<sup>471</sup>

<sup>469</sup> Const. 1851, art. 8, secs. 2-7. Acts 1807; Burns 28-102; Baldwin 6500. Acts 1865; Burns 28-104, 28-105; Baldwin 6499-1, 6511. Acts 1865, 1873, 1897; Burns 28-1008; Baldwin 6485. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490. Board of County Comrs. v. Michener (1889), 120 Ind. 442, 22 N. E. 339. "Report of the State Superintendent of Public Instruction, 1938-1939." *Year Book of the State of Indiana for the Year 1939*, (1940), 263, 264, 279. See the essay entitled "County School Fund Board."

Permanent endowment fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. Fisher v. Brower (1902), 159 Ind. 139, 64 N. E. 614.

<sup>470</sup> Acts 1933, 1935, 1937; Burns, 1939 suppl., 28-1001 to 28-1003; Baldwin, 1937 suppl., 6502 to 6504.

<sup>471</sup> "Report of the State Superintendent of Public Instruction, 1938-1939," *loc. cit.*, 263, 264, 279.

From the moneys raised from the excise tax against dealers in alcoholic beverages, one-third is distributed to the school corporations on the basis of average daily attendance.<sup>472</sup> Morgan County (including Martinsville and Mooresville) received \$4,204.88 from this source for the school year 1938-39.<sup>473</sup>

A state stamp tax on intangible property has further provided financial aid to the schools. The money is collected and held separate from the general fund. Of the total amount, 10 percent is kept by the state for the expense of administering that tax, and the remainder is apportioned to the counties on the basis of assessed valuation of real property in the several counties. One-fourth of the amount received by each county is retained for its general fund, and the remainder is distributed to school taxing units in the county on the basis of assessed valuation of real property in the several units.<sup>474</sup> For the school year 1938-39 Morgan County and the school taxing units therein received \$3,373.69 from this source.<sup>475</sup>

In 1933 the common school relief fund was established for the purpose of aiding schools to continue in operation. The fund is derived from a 7-cent tax levy on each \$100 of taxable property, real and personal, and a poll tax of 50 cents on each taxable poll.<sup>476</sup> Whenever any township trustee or board of trustees of any school town or school city ascertains that there is an insufficient amount of revenue to maintain the school for a term not to exceed 8 months, such trustee or board must file a certificate with the county superintendent of schools stating its needs.<sup>477</sup> The county superintendent of schools forwards the certificate to the state board of education,<sup>478</sup> and this board and the state board of accounts must examine the certificate and decide on the amount to be allotted to the school unit.<sup>479</sup> The money received must

<sup>472</sup> Acts 1935, 1939; Burns, 1939 suppl., 12-811; Baldwin, 1939 suppl., 3764-40f. Acts 1865, 1893, 1932 (Spec. Sess.), 1933, Burns 28-1013; Baldwin 6490.

<sup>473</sup> "Report of the State Superintendent of Public Instruction, 1938-1939," *loc. cit.*, 263, 264, 279.

<sup>474</sup> Acts 1933; Burns 64-922; Baldwin 15920.

<sup>475</sup> "Report of the State Superintendent of Public Instruction, 1938-1939," *loc. cit.*, 263, 264, 279.

<sup>476</sup> Acts 1933; Burns 28-901; Baldwin 6431.

<sup>477</sup> Acts 1933; Burns 28-903; Baldwin 6433.

<sup>478</sup> Acts 1933; Burns 28-904; Baldwin 6434.

<sup>479</sup> Acts 1933; Burns 28-905; Baldwin 6435.

first be used to pay any unpaid items of operating expenses which accrued before the making of such application; and any surplus must be used for the operating expenses of the current school year.<sup>480</sup> Morgan County (including Mooresville) received \$48,897.77 from this fund for the school year of 1938-39.<sup>481</sup>

From 1927 until 1937 any surplus in the county dog fund on the 1st Monday in March each year, after provision was made for certain disbursements therefrom, was distributed for the schools of the county in the same manner as the "common school revenue of such county" was distributed. A 1937 law provides that any money in the "state dog account" in excess of \$50,000 remaining after certain annual distributions therefrom must be transferred by the auditor of the state to the "state school revenue fund."<sup>482</sup>

The school cities, towns, and townships may levy property taxes and poll taxes<sup>483</sup> for the following school purposes: renting, repairing, and constructing schoolhouses; furnishings, apparatus, fuel, tuition, and other current expenses;<sup>484</sup> enforcing compulsory education and keeping poor children in school;<sup>485</sup> providing rooms and equipment for the teaching of agriculture, home economics, physical culture, and practical mental culture;<sup>486</sup> establishing vocational schools;<sup>487</sup> and paying toward the retirement of school bonds.<sup>488</sup>

#### ORGANIZATION

There are two major types of school organizations: (a) county schools; and (b) town and city schools. The "county schools" are, in reality, township schools and are operated by the township trustees severally. The town and city schools

<sup>480</sup> Acts 1933, 1935; Burns, 1939 suppl., 28-907; Baldwin, 1935 suppl., 6437. *Opinions of the Attorney General of Indiana, 1939*, p. 197.

<sup>481</sup> "Report of the State Superintendent of Public Instruction, 1938-1939," *loc. cit.*, 263, 264, 279.

<sup>482</sup> Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1935, ch. 271, sec. 4. Acts 1937; Burns, 1939 suppl., 16-326, 16-327; Baldwin, 1937 suppl., 3811-10, 3811-11. Finerty v. State *ex rel.* School City of Gary (1938), 213 Ind. 470, 12 N. E. (2d) 941.

<sup>483</sup> Acts 1919; Burns 64-101; Baldwin 15514.

<sup>484</sup> Acts 1865, 1873, 1905, 1917; Burns 28-1101; Baldwin 6442.

<sup>485</sup> Acts 1921; Burns 28-513; Baldwin 6706.

<sup>486</sup> Acts 1913; Burns 28-3421; Baldwin 6468.

<sup>487</sup> Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

<sup>488</sup> Acts 1937; Burns, 1939 suppl., 28-3218; Baldwin, 1937 suppl., 6623-11.

are operated in a similar manner by school boards composed of three members appointed by the board of town trustees or the city council, respectively.<sup>489</sup> All public schools are under the control of the legislature. Local government units act only as legislative agencies in the operation of schools.<sup>490</sup>

The county superintendent of schools, who is elected by the township trustees, has charge of each township institute, aids the trustee in the supervision of the township schools, and carries out all orders and instructions of the state superintendent of public instruction and the state board of education. He has no supervision of city or town schools.<sup>491</sup>

The township trustees, the county superintendent of schools, and the chairman of the board of school trustees of each city and town in the county compose the county board of education. The city and town school trustees (other than the chairman of the board) may attend the meetings of the county board of education but have no vote in the proceedings. The county board of education meets semiannually to consider the general needs of the schools.<sup>492</sup>

The local school systems are closely supervised by the state board of education, with the state superintendent of public instruction as its administrative head.<sup>493</sup> One of the most important functions of the state board of education is the issuing of teachers' licenses. These are graded according to the kind and amount of training and experience of the licensee.<sup>494</sup> The state board of education provides for the inspection of schools,<sup>495</sup> establishes a uniform schedule of textbooks,<sup>496</sup> and prescribes an accredited course of instruction for teacher training.<sup>497</sup>

<sup>489</sup> Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962.

<sup>490</sup> Anderson v. Brand (1938), 214 Ind. 347, 5 N. E. (2d) 531, 913. 7 N. E. (2d) 777, 13 N. E. (2d) 955.

<sup>491</sup> Acts 1899, 1911, 1913; Burns 28-702, 28-704, 28-705; Baldwin 5931, 5938, 5940. State *ex rel.* Nebeker v. Sutton (1884), 99 Ind. 300; State *ex rel.* Drummond v. Dillon (1890), 125 Ind. 65, 25 N. E. 126. See the essay entitled "County Superintendent of Schools."

<sup>492</sup> Acts 1873, 1877; Burns 28-801; Baldwin 5933. Interview of July 26, 1939 with Grover Van Duyn, assistant state superintendent of public instruction. See the essay entitled "County Board of Education."

<sup>493</sup> Acts 1865; Burns 28-301, 28-302; Baldwin 5890, 5891. Acts 1913; Burns 28-401; Baldwin 5906. Acts 1939; Burns, 1939 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

<sup>494</sup> Acts 1865; Burns 28-404; Baldwin 5920. Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928.

<sup>495</sup> Acts 1921; Burns 28-304, 28-305; Baldwin 6048, 5939.

<sup>496</sup> Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675.

<sup>497</sup> Acts 1923; Burns 28-4205; Baldwin 5916.

Except as otherwise provided hereinafter, every child between the ages of 7 and 16 years must attend "public school or other school taught in the English language which is open to the inspection of local and state attendance and school officers"; and the child must attend "such a school each year during the entire time the public schools are in session in the school district in which such child resides." A child will be excused for 1 year on a certificate of a physician that the child is physically or mentally unfit for school attendance. Children who are deaf or blind may be sent to the Indiana State School for the Deaf or the Indiana State School for the Blind. The judge of the circuit court, when sitting as a juvenile court, may suspend the provisions of the compulsory attendance law in cases of juvenile delinquents and incorrigibles, and may make special provisions for their education, such as placing them in special private schools or in the state correctional schools (Indiana Boys' School and Industrial School for Girls).<sup>498</sup>

Whenever colored children reside in any school corporation, the school trustee or trustees may establish separate schools for them. These schools must provide rights, privileges, and advantages equal to those in the other schools in the corporation. If no such school is available, colored children must attend the public schools with white children.<sup>499</sup> Colored schools are represented on the state board of education by the required presence of one member of the negro race.<sup>500</sup>

In 1913 the general assembly first provided that school corporations might establish vocational schools or departments for industrial, agricultural, and home economics education. These courses are established in a manner approved by the state board of education, and are maintained by the regular school funds or by a special tax levy.<sup>501</sup> Classes may be held during the day or evening. The instruction is of less than college grade, but designed to meet the needs of persons over 14 years of age.<sup>502</sup>

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<sup>498</sup> Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759. Acts 1903, 1905, 1907, 1913; Burns 9-2814; Baldwin 1761. Acts 1921; Burns 28-505; Baldwin 6698.

*Opinions of the Attorney General of Indiana, 1939*, p. 322.

<sup>499</sup> Acts 1869 (Spec. Sess.), 1877, 1935; Burns, 1939 suppl., 28-5104; Baldwin, 1935 suppl., 6012.

<sup>500</sup> Acts 1939; Burns, 1939 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

<sup>501</sup> Acts 1913, 1919; Burns 28-4902; Baldwin 6443.

<sup>502</sup> Acts 1913, 1919; Burns 28-4903; Baldwin 6449.

Township trustees may furnish free transportation of pupils to and from township schools. If such transportation is provided, free transportation must also be furnished along the regular route for pupils attending parochial schools. If a township school is discontinued without being consolidated with a town school or city school, the township trustee must assign the pupils to another school and furnish transportation for those who live more than 1½ miles from the school to which they are assigned. In case of consolidation of a township school with a town school or city school, transportation must be furnished for all pupils who live more than one-half mile outside the corporate limits of the town or city in which the consolidated school is located.<sup>503</sup>

#### PUBLIC HEALTH

The Indiana State Board of Health closely supervises and directs all local public health activities.<sup>504</sup> Public health services are administered in the county by a part-time county health officer and a full-time public health nurse. They are appointed by the board of commissioners, subject to approval by the state board.<sup>505</sup> The state board of health is composed of several bureaus which perform many services for the local health officers. Some of these bureaus furnish laboratory services such as inspection of dairy products, analysis of water, food, and drugs, and making of bacteriological and pathological tests.<sup>506</sup>

The educational facilities offered by the state board are many. Literature, lectures, lantern slides, and motion picture films are available for use in schools, clubs, and organizations desiring information on public health. These

<sup>503</sup> Acts 1917, 1921; Burns 28-1220, 28-1228; Baldwin 6197, 6206. Acts 1925; Burns 28-1231, 28-1241; Baldwin 6208, 6218. Acts 1929; Burns 28-1242, 28-1252; Baldwin 6219, 6229. Acts 1935; Burns, 1939 suppl., 28-1266, 28-1274; Baldwin, 1935 suppl., 6230-1, 6230-9. Acts 1907, 1909, 1935, 1937; Burns, 1939 suppl., 28-2803; Baldwin, 1937 suppl., 6251. Acts 1921, 1933; Burns 28-2805; Baldwin 6266. Acts 1927; Burns 28-3504; Baldwin 6079. Acts 1917; Burns 28-3801; Baldwin 6271. Acts 1937; Burns, 1939 suppl., 28-3810; Baldwin, 1937 suppl., 6266-1. *Opinions of the Attorney General of Indiana, 1939*, pp. 25, 74, 91, 366.

<sup>504</sup> Acts 1891, 1909; Burns 35-105, 35-106; Baldwin 8390, 8391.

<sup>505</sup> Acts 1935; Burns, 1939 suppl., 35-118, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6.

See the essays entitled "County Health Officer" and "Public Health Nurse."

<sup>506</sup> Acts 1905; Burns 35-302; Baldwin 8394.

Test for rabies. Acts 1935; Burns, 1939 suppl., 35-711; Baldwin, 1935 suppl., 3863-1.

facilities may be obtained from the bureau of health and physical education, the bureau of communicable diseases, and the bureau of venereal diseases.<sup>507</sup>

The state board of health distributes insulin, pneumonia serum, diphtheria toxoid, smallpox virus, and typhoid bacterins to physicians for indigent patients.<sup>508</sup>

Health laws provide that public water supplies must be inspected by the state board of health;<sup>509</sup> that manufacturing, storage, and retail establishments dealing in foodstuffs must maintain certain standards of sanitation and cleanliness;<sup>510</sup> that dwellings which are unsanitary, unsafe, unhealthful, or rendered uninhabitable by "the existence on the premises of a nuisance likely to cause sickness" among the occupants must be properly inspected and ordered vacated;<sup>511</sup> that health officers must ascertain the existence of rat infestations, order their extermination, and recommend methods of extermination.<sup>512</sup>

Food and drug products are inspected in the state laboratory for adulteration or misbranding.<sup>513</sup> Dairy products are tested for butterfat content and weight.<sup>514</sup>

Contagious diseases must be reported to the state board and properly quarantined by the health officer.<sup>515</sup> All cases of tuberculosis<sup>516</sup> and leprosy must be reported to the state board of health as soon as they are diagnosed. The state board has jurisdiction to direct the care and disposition of lepers.<sup>517</sup>

All birth certificates must show that the attendant at such birth took the proper precautions to prevent ophthalmia

<sup>507</sup> Acts 1891, 1909; Burns 35-106; Baldwin 8391. Interview of August 17, 1939 with Dr. Verne K. Harvey, director of the state board of health.

<sup>508</sup> Acts 1907, 1919, 1929, 1935, 1939; Burns, 1939 suppl., 35-701 to 35-703, 35-710, 35-712; Baldwin, 1935 suppl., 13392 to 13394, 13395-1; Baldwin, 1939 suppl., 13395-2.

<sup>509</sup> Acts 1909; Burns 35-202, 35-203; Baldwin 8411, 8412.

<sup>510</sup> Acts 1909; Burns 35-1001; Baldwin 8504.

<sup>511</sup> Acts 1917; Burns 35-1801; Baldwin 8563.

<sup>512</sup> Acts 1913; Burns 35-1601, 35-1602; Baldwin 8570, 8571.

<sup>513</sup> Acts 1905; Burns 35-302; Baldwin 8394. Acts 1907; Burns 35-1201; Baldwin 8432. Acts 1939, ch. 38.

<sup>514</sup> Acts 1913; Burns 35-1301; Baldwin 8455.

<sup>515</sup> Acts 1903; Burns 35-401, 35-403; Baldwin 8531, 8533.

<sup>516</sup> Acts 1917; Burns 35-601, 35-602; Baldwin 8402, 8552.

<sup>517</sup> Acts 1917; Burns 35-501 to 35-503; Baldwin 8543 to 8545.

neonatorum (the disease causing infant blindness).<sup>518</sup> If an infant's eyes show any sign of infection within 2 weeks after the date of birth, a written report thereof must be made to the health officer within 6 hours after such discovery.<sup>519</sup>

All persons applying to the clerk of the circuit court for a marriage license must present a certificate from a licensed physician stating that the applicant is not infected with communicable syphilis. Before giving such certificate, the physician must have a blood specimen of the applicant examined by the laboratory of the state board of health or a laboratory approved by the board. The test must be made not more than 30 days before the application for a license. The judge of the circuit court may waive these requirements at any time in case of "emergency or other causes shown by affidavit or other proof."<sup>520</sup>

The county health officer enforces the state health laws and the regulations of the state board of health; promotes health education; collects vital statistics; makes periodic reports to the state board of health; and keeps records of these reports in his record books.<sup>521</sup>

Morgan County has a county hospital. It was established in November 1918, is officially known as the "Memorial Hospital of Morgan County, Indiana," and is located at the corner of Main and Columbus Streets in Martinsville.<sup>522</sup>

#### VITAL STATISTICS

In Indiana the collection of vital statistics is supervised by the bureau of vital statistics of the state board of health.<sup>523</sup> The county health officer makes the collection of local data on forms supplied by the state board of health, and periodically delivers reports of all records to the state board. The health officer collects statistics of births, deaths, marriages, and communicable diseases. Physicians, midwives, the clerk of the circuit court, and all responsible

<sup>518</sup> Acts 1911; Burns 35-901; Baldwin 8558.

<sup>519</sup> Acts 1911; Burns 35-903; Baldwin 8560.

<sup>520</sup> Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

<sup>521</sup> Acts 1935; Burns, 1939 suppl., 35-118, 35-122, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-6.

<sup>522</sup> Acts 1917, 1919, 1921, 1925, 1927; Burns 22-3215; Baldwin 4517. Acts 1903, 1939; Burns, 1939 suppl., 22-3201; Baldwin, 1939 suppl., 4507. Commissioners' Record 26:325, 326, 332, 336, 337, 555, 557; 27:144, 456; 28:6, 24.

<sup>523</sup> Acts 1907, 1913; Burns 35-116; Baldwin 8399.

householders are required to report to the county health officer the facts needed for such statistics.<sup>524</sup>

All birth reports are to be made to the health officer within 36 hours after birth. A child that lives and breathes after birth, no matter how brief the period, and regardless of the period of gestation, is a living child; and if he thereafter dies, his birth and death must be reported and recorded.<sup>525</sup>

Deaths are reported as soon as possible, because a body must not be buried until a burial permit has been issued by the health officer in charge, and burial permits are not issued until the death certificate is completed. If death has occurred by means of violence or criminal practices, the death notice is referred to the coroner. Burial may be made anywhere in the state regardless of the county in which the permit is issued. When a death occurs outside the state, and the body is brought into the state for interment, the burial permit must be based on the transportation permit, and no record of the death is required.<sup>526</sup> The burial permit is preserved with the records of the cemetery.<sup>527</sup>

Certified copies of the official records of births and deaths are furnished by the secretary of the state board of health, on request of any applicant. Courts and public officials will receive these copies as proof of the facts stated therein.<sup>528</sup>

The clerk of the circuit court issues all marriage licenses, and makes a monthly report to the county health officer showing marriage statistics. The health officer records each marriage in his record book, and sends a quarterly report to the state board of health. Every marriage must be reported on an official blank, by the person performing the ceremony, within 3 days after the occurrence thereof, to the clerk of the circuit court of the county where the license was issued. The clerk keeps a record of each reported marriage, and will furnish a certified copy thereof on request

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<sup>524</sup> Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

<sup>525</sup> Acts 1907, 1911, 1913; Burns 35-115, 35-116, 35-901; Baldwin 8398, 8399, 8558. Rule 4 of the state board of health.

<sup>526</sup> Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 3 of the state board of health.

<sup>527</sup> Acts 1939; Burns, 1939 suppl., 20-1021; Baldwin, 1939 suppl., 4617-21.

<sup>528</sup> Acts 1907, 1913; Burns 35-116; Baldwin 8399.

of any applicant. Courts and public officials will receive these copies as proof of the facts therein stated.<sup>529</sup>

Weekly reports, on printed forms provided by the United States Public Health Service, summarizing all communicable diseases or stating the absence thereof, are made by the local health officers to the state board of health.<sup>530</sup>

The heads of all public and private institutions, such as hospitals, poor asylums, and places of confinement, are required to keep all statistics concerning the inmates and make reports directly to the state board of health as required by the board.<sup>531</sup>

#### WELFARE ASSISTANCE

An important public service is the administration of the Public Welfare Act by the county department of public welfare, under the supervision of the Indiana State Department of Public Welfare.<sup>532</sup>

An applicant for old-age assistance must be at least 65 years old; must be a citizen of the United States; must have lived in the state for 5 years out of the last 9, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; and must not have transferred his property within the 5 years immediately before his application.<sup>533</sup> He must reveal all property and income in which he has an interest,<sup>534</sup> agree to reimburse the county for assistance given him, and assign as collateral security such part of his personal property as the county department of public welfare may require.<sup>535</sup> After an investigation the county department may grant him assistance, never

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<sup>529</sup> Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. Acts 1905, 1917; Burns 44-205; Baldwin 5625. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634. Rule 5 of the state board of health.

Injunction against illegal issuance of license. Sweigart v. State (1938), 213 Ind. 157, 12 N. E. (2d) 134.

<sup>530</sup> Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 6 of the state board of health.

<sup>531</sup> Acts 1907, 1913; Burns 35-117; Baldwin 8400.

<sup>532</sup> See the essay entitled "County Department of Public Welfare."

<sup>533</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1201; Baldwin, 1937 suppl., 14078-32.

<sup>534</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1204; Baldwin, 1937 suppl., 14078-35.

<sup>535</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1213; Baldwin, 1937 suppl., 14078-44.

exceeding \$30 a month.<sup>536</sup> A copy of the certificate of award is filed in the office of the recorder, and constitutes a lien on any real property which the pensioner then owns or subsequently acquires.<sup>537</sup> With the consent of the state department of public welfare, the county department may demand a transfer of all property he owns, on the sole condition that if assistance is suspended or if he dies the property will revert to him or his estate, subject to a lien for sums the state has paid to him.<sup>538</sup>

A blind applicant, in order to receive state assistance, must be 21 years old if a male or 18 years old if a female; must be a citizen of the United States; must have lost his eyesight while a resident of the state or have lived in the state 5 years of the last 9, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; must not have transferred his property within the 5 years immediately before his application; and must not solicit alms while receiving assistance.<sup>539</sup> The amount he receives is determined by the county department after an investigation of his needs<sup>540</sup> and never exceeds \$30 a month<sup>541</sup> except as temporary assistance is given for treatment of his eyes.<sup>542</sup> Blind children may be sent to the school for the blind near Indianapolis.<sup>543</sup>

A dependent or destitute child must have lived in the state 1 year preceding his application for assistance or have been born within the state during the year, his mother having resided in the state 1 year before his birth.<sup>544</sup> The first dependent child may receive \$20, the second child \$18, and each additional child \$12 a month.<sup>545</sup> A destitute child<sup>546</sup>

<sup>536</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1203; Baldwin, 1937 suppl., 14078-34.

<sup>537</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

<sup>538</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1214; Baldwin, 1937 suppl., 14078-45.

<sup>539</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1221; Baldwin, 1937 suppl., 14078-52.

<sup>540</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1225; Baldwin, 1937 suppl., 14078-58.

<sup>541</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1223; Baldwin, 1937 suppl., 14078-54.

<sup>542</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1236; Baldwin, 1937 suppl., 14078-67.

<sup>543</sup> Acts 1865; Burns 22-601 *et seq.*; Baldwin 4560 *et seq.*

<sup>544</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1240, 52-1268; Baldwin, 1937 suppl., 14078-71, 14078-97b.

<sup>545</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1241; Baldwin, 1937 suppl., 14078-72.

<sup>546</sup> Acts 1937; Burns, 1939 suppl., 52-1267; Baldwin, 1937 suppl., 14078-97a.

may receive as much as \$23 a month,<sup>547</sup> and is eligible for any other relief he may require.<sup>548</sup> Crippled children may be placed in any public or private hospital or be sent to the Riley Hospital at Indianapolis.<sup>549</sup> Diseased and defective children may be placed in any public hospital in the county by the judge of the circuit court.<sup>550</sup> Orphan, dependent, and neglected children under 16 years of age are placed in private homes under the supervision of the county department of public welfare.<sup>551</sup>

No official, in carrying out the provisions of the Welfare Act, may take charge of a child over the objection of a parent or person standing *in loco parentis* to the child, except pursuant to a court order.<sup>552</sup> Persons receiving aid under the Welfare Act are ineligible for other public relief.<sup>553</sup> Assistance is not transferable, is not subject to legal process, and is not an asset in bankruptcy or insolvency proceedings.<sup>554</sup>

When a recipient of welfare assistance moves to another county in the state with the approval of the state department, there is no suspension of his assistance. The county to which a blind person moves is responsible immediately for the payment of his assistance. In case of the removal of a child or aged person, the county from which he moves is responsible for 1 year and then the other county becomes responsible.<sup>555</sup>

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<sup>547</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1269; Baldwin, 1937 suppl., 14078-97c.

<sup>548</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1278; Baldwin, 1937 suppl., 14078-97i.

<sup>549</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1256; Baldwin, 1937 suppl., 14078-87.

<sup>550</sup> Acts 1933; Burns 52-501; Baldwin 5700.

<sup>551</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1104(c); Baldwin, 1937 suppl., 14078-5(c): Interview of December 11, 1939 with Thurman A. Gottschalk, administrator of the state department of public welfare.

Validity of regulations as to bringing nonresident children into the state for care by resident families. *Opinions of the Attorney General of Indiana, 1939*, p. 264.

<sup>552</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1417; Baldwin, 1937 suppl., 14078-130.

<sup>553</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1202, 52-1222; Baldwin, 1937 suppl., 14078-33, 14078-53.

<sup>554</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1210, 52-1231; Baldwin, 1937 suppl., 14078-41, 14078-62.

<sup>555</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1218, 52-1239, 52-1248; Baldwin, 1937 suppl., 14078-49, 14078-70, 14078-79.

If a person entitled to assistance under the Welfare Act is unable to care for himself, the county department pays his relief money to some responsible person for his benefit.<sup>556</sup> If a recipient of relief dies leaving an estate insufficient to bury him, and the person legally responsible for his burial are unable to pay the expenses, the county department pays \$75 for his funeral, plus an additional \$25 for a burial lot (if the deceased did not own one).<sup>557</sup>

An appeal may be taken from the county department to the state department of public welfare.<sup>558</sup> Nothing in the Welfare Act relieves any person from liability for the support of a parent, child, or spouse.<sup>559</sup>

The county maintains an asylum for the poor.<sup>560</sup> Pauper residents of the county may be placed therein by township trustees.<sup>561</sup> Nonresident paupers may be kept there temporarily.<sup>562</sup> The law provides that children between the ages of 3 and 17 shall not be kept in the asylum for a period longer than 60 days.<sup>563</sup> Township poor relief is administered by each township trustee.<sup>564</sup> Anyone refused relief by a township trustee has a right to a hearing before the board of commissioners<sup>565</sup> and to an appeal from that board to the circuit court.<sup>566</sup> The board of commissioners may borrow for township

<sup>556</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1208, 52-1229; Baldwin, 1937 suppl., 14078-39, 14078-60.

<sup>557</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1209, 52-1230; Baldwin, 1937 suppl., 14078-40, 14078-61.

Burial of inmates of county infirmary. *Opinions of the Attorney General of Indiana, 1939*, p. 179.

<sup>558</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1211, 52-1232, 52-1246; Baldwin, 1937 suppl., 14078-42, 14078-63, 14078-77.

<sup>559</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

<sup>560</sup> Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1939 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

<sup>561</sup> 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1939 suppl., 52-146, 52-151; Baldwin, 1935 suppl., 13320-3, 13320-8.

<sup>562</sup> Acts 1935; Burns, 1939 suppl., 52-163; Baldwin, 1935 suppl., 13320-20.

<sup>563</sup> Acts 1897, 1901; Burns 22-2608; Baldwin 4388.

<sup>564</sup> Acts 1935, 1939; Burns, 1939 suppl., 52-144 to 52-182a; Baldwin, 1935 suppl., 13320-1 to 13320-38, 13359-11, 13359-12; Baldwin, 1939 suppl., 13320-4, 13320-13. Acts 1937; Burns, 1939 suppl., 52-183 to 52-194; Baldwin, 1937 suppl., 13321-1 to 13321-11, 13320-39.

<sup>565</sup> Acts 1935; Burns, 1939 suppl., 52-160; Baldwin, 1935 suppl., 13320-17.

<sup>566</sup> 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5276.

poor relief, if the funds available are not sufficient. The township funds are used for paying these loans.<sup>567</sup>

#### PUBLIC WORKS AND PROPERTY

The board of commissioners has power to make orders respecting the property of the county in conformity to law; to sell the public grounds of the county on which public buildings are situated, and to purchase in lieu thereof, in the name of the county, other grounds in the county seat on which such buildings shall be erected; to purchase other lands for the enlargement of the public square, and to take care of and preserve such property; and to grant licenses, permits, or franchises with respect to the use of the property of the county.<sup>568</sup> No sale, conveyance, or purchase, by the board, of real estate of the value of \$1,000 or more can take place except pursuant to ordinance of the county council authorizing such sale or purchase and fixing the terms and conditions thereof.<sup>569</sup> The board cannot sell county property, real or personal, except at public auction after 60 days' notice by publication and posting.<sup>570</sup>

#### ROADS AND BRIDGES

The board of commissioners has power to construct and maintain roads<sup>571</sup> and bridges.<sup>572</sup> Generally the preliminary procedure for such construction is as follows: Taxpayers file with the board of commissioners a petition requesting the improvement; notice of hearing before the board is published; taxpayers opposing the petition file remonstrances; viewers

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567 Acts 1935, 1939; Burns, 1939 suppl., 52-604, 52-609, 52-610; Baldwin, 1935 suppl., 13359-1, 13359-6; Baldwin, 1939 suppl., 13359-7.

568 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

569 Acts 1899; Burns 26-534; Baldwin 5399.

570 Acts 1907; Burns 26-2008; Baldwin 5107.

571 Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1923; Burns 36-1001; Baldwin 9020. Acts 1905; Burns 36-1204; Baldwin 8807. Acts 1905; Burns 36-1301 *et seq.*; Baldwin 8787 *et seq.* Acts 1921; Burns 36-1401 *et seq.*; Baldwin 8904 *et seq.*

Budget estimates. *Bateman v. State* (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

572 Acts 1905, 1907, 1929; Burns 36-1901; Baldwin 9236. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903, 1923; Burns 36-2002; Baldwin 9192. Acts 1920; Burns 36-2401 *et seq.*; Baldwin 9151 *et seq.*

appointed by the board make inspection and recommendations; damages to landowners are determined; the petition is finally approved or rejected; if approved, a contract for the work is let; and the damages are paid. In some instances bonds may be issued for the construction of roads<sup>573</sup> and bridges,<sup>574</sup> and special assessment liens charged against the land benefited by the road.<sup>575</sup>

State highways are those roads which have been officially designated as state highways by the state highway commission with the approval of the governor. State highways and the bridges thereon are constructed, reconstructed, and maintained with state and federal funds under the supervision of the state highway commission. Roads not so designated as state highways, and those so designated and thereafter abandoned by the state, are known as county roads. County roads and the bridges thereon are constructed, reconstructed, and maintained with county funds.<sup>576</sup> The county may render financial assistance to the state highway commission in the construction or maintenance of any state highway or bridge located wholly within the county, and any bridge (on such highway) over a stream forming the county boundary.<sup>577</sup>

Expenses incurred in the maintenance of county roads may be paid only from funds received by the county from the motor vehicle highway account of the state, except that taxes

<sup>573</sup> Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1435 to 36-1443; Baldwin 8938 to 8946. Acts 1937; Burns, 1939 suppl., 36-332; Baldwin, 1937 suppl., 8859-1.

<sup>574</sup> Acts 1920 (Spec. Sess.); Burns 36-2402; Baldwin 9152. Acts 1927; Burns 36-2421; Baldwin 9171. Acts 1929, 1937; Burns, 1939 suppl., 36-2432; Baldwin, 1937 suppl., 9182. Acts 1927; Burns 36-2441; Baldwin 9128.

<sup>575</sup> Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

<sup>576</sup> Acts 1917, ch. 87, secs. 5, 6, 9, 12, 27, 31. Acts 1919, ch. 53, secs. 12, 16, 23, 31. Acts 1933, 1935; Burns, 1939 suppl., 36-107, 36-117, 36-127; Baldwin, 1935 suppl., 8647, 8656, 8665. Acts 1933; Burns 36-110, 36-125, 36-1102; Baldwin 8649, 8663, 8700. Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1939 suppl., 36-2804, 36-2806; Baldwin, 1937 suppl., 8695-4, 8695-6; Baldwin, 1939 suppl., 8695-4. Acts 1937; Burns, 1939 suppl., 36-2912, 36-2913, 36-2920, 36-2921; Baldwin, 1937 suppl., 8696-11, 8696-12, 8696-19, 8696-20. Acts 1939; Burns, 1939 suppl., 36-3013; Baldwin, 1939 suppl., 9175-13.

Township roads transferred to county road system. Acts 1932 (Spec. Sess.), 1933; Burns 36-901 to 36-904; Baldwin 8711 to 8714.

Law transferring township roads to county road system authorized the county to pay previous obligations of townships on such roads, but did not require such payment. Board of County Comrs. v. Farmers State Bank of Eaton (1937), 104 Ind. App. 692, 10 N. E. (2d) 769.

<sup>577</sup> Acts 1923, 1929; Burns 36-136 to 36-141; Baldwin 8672 to 8675, 8678, 8679.

may be levied for such purpose by the unanimous vote of the county council in case of extraordinary emergency or indispensable necessity.<sup>578</sup>

The county surveyor ordinarily prepares the plans and specifications for the construction of county roads and bridges, and has general supervision of such construction. If he is not a competent civil engineer, the board may appoint one to perform such duties.<sup>579</sup>

The county highway supervisor has general supervision of the maintenance and repair of all county roads, bridges, and culverts.<sup>580</sup> He makes maps of all county roads, and gives each road a name or number, so that the roads may be efficiently patroled for making repairs.<sup>581</sup> Between January 1 and April 1 each year the highway supervisor is required to examine hedge fences and other obstructions of view near county roads, and to cause the trimming or removal of any such obstructions which violate the laws.<sup>582</sup> Weeds must be cut and removed from the rights-of-way of county roads each year between June 15 and September 1.<sup>583</sup>

The board of commissioners has power to make suitable rules and regulations covering traffic on county roads, and to take steps necessary to enforce the rules. If such road is on a county line, the board of commissioners of the respective counties, in joint session, may make and enforce the rules.<sup>584</sup> The county surveyor or county highway supervisor may fix the limits of the loads for any road, bridge, or culvert maintained by the county.<sup>585</sup>

#### PUBLIC BUILDINGS

The law provides that the board of commissioners must cause a courthouse, jail, and public offices for the clerk,

<sup>578</sup> Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1939 suppl., 36-2804; Baldwin, 1939 suppl., 8695-4. Acts 1937; Burns, 1939 suppl., 36-2806; Baldwin, 1937 suppl., 8695-6.

<sup>579</sup> 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>580</sup> Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

<sup>581</sup> Acts 1933; Burns 36-1109; Baldwin 8707.

<sup>582</sup> Acts 1891, 1921, 1933; Burns 30-301, 30-302; Baldwin 7647, 7648.

<sup>583</sup> Acts 1939; Burns, 1939 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

<sup>584</sup> Acts 1919; Burns 36-706; Baldwin 8899. Interview of December 29, 1939 with T. A. Dicus, chairman of the state highway commission.

<sup>585</sup> Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708. Interview of December 29, 1939 with T. A. Dicus, chairman of the state highway commission.

recorder, treasurer, and auditor to be erected and furnished, where this has not been done; and must keep all the public buildings of the county in repair; and that such offices must be fireproof, if practicable.<sup>586</sup>

For the purpose of acquiring a new courthouse, the board, without appraisement and without authority from the county council, may sell to the state any lands of the county containing public buildings, and buy other land for courthouse grounds. The proceeds of sale can be used only for the purchase of the land and construction of the courthouse. Additional funds for such purpose may be raised by issuing bonds or notes.<sup>587</sup>

If the courthouse or jail is wholly or partly destroyed by fire or windstorm, it may be reconstructed or repaired by the board; bonds may be issued therefor; and a tax may be levied to retire the bonds.<sup>588</sup>

County buildings, not needed by the courts or for county business, may be leased to the city or town in which such buildings are located for a term not exceeding 10 years in any one lease,<sup>589</sup> or to private persons or corporations for a term not exceeding 5 years.<sup>590</sup>

The board may construct and maintain public halls, and provide a custodian, janitor, lights, and heat therefor; and may join with a city for such purpose, or sell such halls to a city or town.<sup>591</sup> The board may erect soldiers' monuments,<sup>592</sup> memorial buildings, auditoriums, and coliseums.<sup>593</sup> A township schoolhouse may be used for certain public meetings, with the consent of the township trustee.<sup>594</sup> A schoolhouse no longer used as such, because of the abandonment of the school or its consolidation with another school, may be reconstructed for use as a community house, on application of 51 percent of the resident freeholders of the school district.<sup>595</sup>

<sup>586</sup> 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240.

<sup>587</sup> Acts 1917, 1920 (Spec. Sess.); Burns 26-2201 to 26-2210; Baldwin 5165 to 5174.

<sup>588</sup> Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

<sup>589</sup> Acts 1909; Burns 26-1801 to 26-1804; Baldwin 5151 to 5154.

<sup>590</sup> Acts 1919; Burns 26-1805 to 26-1810; Baldwin 5155 to 5160.

<sup>591</sup> Acts 1903, 1913; Burns 26-1901 to 26-1906; Baldwin 5146 to 5164.

<sup>592</sup> Acts 1865, 1891; Burns 26-1701; Baldwin 5298.

<sup>593</sup> Acts 1913; Burns 26-1707; Baldwin 5132.

<sup>594</sup> Acts 1859; Burns 28-3307; Baldwin 6094. Acts 1913; Burns 23-3308 to 28-3311; Baldwin 6095 to 6098. *Opinions of the Attorney General of Indiana, 1939*, p. 172.

<sup>595</sup> Acts 1939; Burns, 1939 suppl., 28-3320; Baldwin, 1939 suppl., 6195-1.

Contracts for construction of public buildings may be let by the board of commissioners in pursuance of appropriation by the county council,<sup>596</sup> after plans and specifications adopted by the board have remained in the auditor's office 30 days open to public inspection, notice inviting bids has been published, and bids, affidavits, and bonds have been received from bidders.<sup>597</sup>

#### DRAINAGE

Drainage districts and special assessment liens on the land in the benefited area, to pay for the drainage, may be established by the circuit court on petition of landowners, after being referred to the county surveyor and viewers appointed by the court.<sup>598</sup> The petition will be dismissed if owners of two-thirds of the affected land remonstrate within 20 days.<sup>599</sup> If the original assessment is insufficient to complete the work, an additional assessment may be ordered after report of the surveyor, notice to the landowners, and hearing by the court.<sup>600</sup> After assessments are adjusted and confirmed, they are placed on the ditch duplicate and collected in the manner in which taxes are collected.<sup>601</sup>

The county surveyor has general supervision of the construction and maintenance of all ditches, drains, and levees. He makes all necessary surveys, maps, plans, and specifications when a court grants petitions for construction.<sup>602</sup> The law requires that open ditches be cleaned out and repaired biennially, and that weeds, willows, and debris be removed therefrom annually, and that public tile drains be repaired whenever necessary.<sup>603</sup>

<sup>596</sup> Acts 1899; Burns 26-525; Baldwin 5389.

<sup>597</sup> Acts 1899; Burns 26-537; Baldwin 5402. Acts 1907; Burns 26-2001 to 26-2005; Baldwin 5100 to 5104.

<sup>598</sup> Acts 1933; Burns 27-104, 27-109, 27-116, 27-134; Baldwin 5740, 5745, 5752, 5770. Penn v. Ducomb (1938), 213 Ind. 133, 12 N. E. (2d) 116.

<sup>599</sup> Acts 1933; Burns 27-108; Baldwin 5744.

<sup>600</sup> Acts 1933; Burns 27-122; Baldwin 5758.

<sup>601</sup> Acts 1933; Burns 27-134; Baldwin 5770.

The circuit court has no power to collect these assessments as part of the proceedings for establishment of the drainage district. Penn v. Ducomb (1938), 213 Ind. 133, 12 N. E. (2d) 116.

<sup>602</sup> Acts 1933; Burns 27-101, 27-201; Baldwin 5737, 5775. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>603</sup> Acts 1933, 1935; Burns, 1939 suppl., 27-203, 27-210; Baldwin, 1935 suppl., 5777, 5784. Acts 1939; Burns, 1939 suppl., 27-233; Baldwin, 1939 suppl., 5794-9. *Opinions of the Attorney General of Indiana, 1939*, p. 292.

The board of commissioners may (by purchase, grants, donations, or eminent domain) acquire lands and rights necessary to obtain a right-of-way for drainage or easement for sewers, when necessary for the proper maintenance of any county building or institution.<sup>604</sup>

#### OTHER PUBLIC PROPERTY

The board of commissioners may, without petition, purchase or otherwise acquire lands within the county for park purposes and make the necessary improvements thereon.<sup>605</sup> If 200 persons, who are taxpayers and voters, petition the board to acquire land for park purposes, the board gives 60 days' notice by publication and conducts a public hearing on the question. If 20 percent of the resident taxpayers file remonstrances on or before the day fixed for hearing, the petition will be dismissed.<sup>606</sup> The board may acquire land to convey to the state for park purposes, on petition of 200 persons who are taxpayers and voters, after (a) publication of 30 days' notice, (b) public hearing, (c) consent of the governor and the director of the state department of conservation, (d) fixing a tax levy, and (e) issuing bonds (if needed). The petition will be dismissed if 25 percent of the resident taxpayers file remonstrances before the date fixed for hearing.<sup>607</sup>

The board of commissioners may acquire, by purchase or gift, any lands within the county for the purpose of a permanent public forest.<sup>608</sup> Purchase for such purpose may be made on petition signed by 50 or more freeholders of the county, after publication of notice, a public hearing, and fixing a tax levy to pay for the same. Money may be raised by bond issue or temporary loan.<sup>609</sup> A gift of lands to the county on condition that they be maintained as a public forest can be accepted only by a majority of the board of commissioners and county council in joint session.<sup>610</sup> Any aggrieved taxpayer may appeal to the circuit court.<sup>611</sup>

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<sup>604</sup> Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

<sup>605</sup> Acts 1923, 1927; Burns 26-1501; Baldwin 5199.

<sup>606</sup> Acts 1923; Burns 26-1503, 26-1504; Baldwin 5201, 5202.

<sup>607</sup> Acts 1927; Burns 26-1512 to 26-1516; Baldwin 5190 to 5194.

<sup>608</sup> Acts 1929; Burns 32-101; Baldwin 4875.

<sup>609</sup> Acts 1929, 1935; Burns, 1939 suppl., 32-102; Baldwin, 1935 suppl., 4876.

<sup>610</sup> Acts 1929; Burns 32-105; Baldwin 4879.

<sup>611</sup> Acts 1929, 1935; Burns, 1939 suppl., 32-109; Baldwin, 1935 suppl., 488-1.

Swamplands, saline lands, and meander lands, owned by the state, may be purchased by the county (acting through the board of commissioners) to be used for a public park or public forest, or both, on petition to the circuit court, appraisal of lands, and payment of value.<sup>612</sup>

The board may permit county lands within 1½ miles of a city or town to be used by such city or town for park purposes. Title to the land remains in the county.<sup>613</sup>

The board, on petition of a majority of the voters in the county, may purchase lands to be used for fairgrounds,<sup>614</sup> and thereafter sell such land or any part thereof, if it is no longer an eligible location for fairs.<sup>615</sup>

The county may, separately or in conjunction with another county or city, acquire, maintain, and dispose of airports and appurtenances thereto.<sup>616</sup>

Lands conveyed to the board of commissioners for the purpose of a public or private cemetery must be held by the board forever in trust for such purpose,<sup>617</sup> subject to the exceptions hereinafter stated. The board may convey any such public cemetery to any city or town within the vicinity thereof on application of such city or town,<sup>618</sup> and may convey any such public or private cemetery to a cemetery association on petition of a majority of the persons, being residents of the county and heads of families, whose dead are buried in the cemetery.<sup>619</sup>

#### AGRICULTURE

The constitution provides that improvement of agriculture shall be encouraged.<sup>620</sup> Allowances may be made out of the county's general fund to agricultural societies for the promotion of agricultural and horticultural interests.<sup>621</sup> Morgan County has a county agricultural agent and a home demonstration agent, for the improvement of agriculture, home

<sup>612</sup> Acts 1929; Burns 62-217 to 62-225; Baldwin 15260 to 15268.

<sup>613</sup> Acts 1911; Burns 26-1526 to 26-1531; Baldwin 5181 to 5186.

<sup>614</sup> Acts 1873; Burns 26-1517, 26-1518; Baldwin 5330, 5331.

<sup>615</sup> Acts 1873; Burns 26-1519; Baldwin 5332.

<sup>616</sup> Acts 1920 (Spec. Sess.), 1921; Burns 14-301 to 14-306; Baldwin 4021, 4023, 4026.

<sup>617</sup> 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10600.

<sup>618</sup> Acts 1905; Burns 48-6003; Baldwin 12665.

<sup>619</sup> Acts 1881 (Spec. Sess.); Burns 21-210, 21-211; Baldwin 4626, 4627.

<sup>620</sup> Const. 1851, art. 8, sec. 1.

<sup>621</sup> Acts 1877; Burns 15-314; Baldwin 5333.

economics, and rural life. The agricultural agent, under the supervision of Purdue University, cooperates with farmers' institutes, farmers' clubs, and other rural and civic organizations; conducts practical farm demonstrations, boys' and girls' clubs and contest work, and other movements for the advancement of agricultural and country life; gives advice to farmers on practical farm problems; and aids the superintendent of schools and the teachers of the county in giving practical education in agriculture and domestic science. The home demonstration agent, working in close cooperation with the agricultural agent, directs all home economic extension work, both adult and junior, including girls' 4-H Clubs, and cooperates with the county schools.<sup>622</sup>

#### RECORDS SYSTEM

The records of Morgan County began with its creation in 1822. The establishment of each of the county offices and bureaus inaugurated their records which were kept in such fashion as the incumbents saw fit, following in the main the directions of the general assembly under the provisions for each office.

In 1909 the legislature established the state board of accounts, which formulates, prescribes, and installs systems of accounting and reporting which are uniform for every public office of the same class.<sup>623</sup> Under this law some of the records were combined to eliminate separation, duplication, and overlapping. The board also permits the use of bound loose-leaf records in almost all cases where the records are typed. The quality of the paper and ink and the binding and rebinding practices are left to the judgment of the board of commissioners, except that a good quality is required.<sup>624</sup>

An act of 1937 provides that the board of commissioners may provide for the installation of a modern tax-accounting system in the offices of the treasurer and auditor, after a description thereof has been approved by the board of commissioners and certified to, and approved by, the state board

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<sup>622</sup> U. S. C., title 7, secs. 341 to 343, 344 to 348 (law of 1914). Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457. Acts 1931; Burns 28-5627; Baldwin 6475. Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction. See the essay entitled "County Agricultural Agent."

<sup>623</sup> Acts 1909; Burns 60-202, 60-224; Baldwin 13855, 13875.

<sup>624</sup> Interview of February 28, 1940 with E. P. Brennan, state examiner.

of accounts.<sup>625</sup> No system has been established in Morgan County under authority of this law.<sup>626</sup>

Whenever it may be necessary for the preservation of the records of the circuit court or any county office, it is the duty of the board of commissioners to order the officer in charge of such records to copy and transcribe the same.<sup>627</sup>

In the event of the loss or destruction, in whole or in part, of any of the county records, they must be replaced as follows: (a) The board of commissioners must send to the governor a certified list of such records furnished by the state, and he must order the proper state officer to replace them. (b) Records compiled in the county must be restored, if possible, from original documents by the county officer who had custody of the original records. (c) If impossible to reduplicate the old records, new records must be made on evidence taken from parties having knowledge of the facts concerned, by the proper officer or by a commissioner appointed by the board of commissioners for that purpose.<sup>628</sup>

In 1925 a law was passed permitting county officials, at their discretion, to turn over to the archives division of the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books and material not in current use in their offices.<sup>629</sup> County officials have only occasionally availed themselves of this provision for permanent preservation of their old records.

An act of 1927 provided that deeds, mortgages, and other instruments may be recorded by a photographic process adopted by the board of commissioners.<sup>630</sup> The photographic method of recording has never been used generally by any Morgan County officer.

In 1937 the general assembly authorized the director of the state library, at his discretion, to make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or

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<sup>625</sup> Acts 1937; Burns, 1939 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

<sup>626</sup> Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>627</sup> Acts 1877; Burns 26-634; Baldwin 5339.

<sup>628</sup> 2 Rev. Stat. 1852, Acts 1865; Burns 57-101 to 57-124; Baldwin 1168 to 1191. Acts 1881; Burns 57-208 to 57-210; Baldwin 1165 to 1167. Acts 1893; Burns 57-125, 57-211 to 57-214; Baldwin 1197, 1192 to 1195.

<sup>629</sup> Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

<sup>630</sup> Acts 1927; Burns 49-3207; Baldwin 14667.

material in any county, city, or other public office, for preservation in the state archives. All public officials must permit such copies to be made.<sup>681</sup>

In 1939 the legislature created in each county a commission of public records, consisting of the judge of the circuit court, the president of the board of commissioners, the county auditor, and the clerk of the circuit court. The commission must classify county records on the following basis: (a) Public records no longer of official or historical value; (b) public records which are of current official value and should be retained in the office where they are required to be filed; (c) public records of official value but which are consulted and used so infrequently that they are no longer of appreciable value to the officer with whom they are required to be filed; and (d) public records having historical value but no apparent official value. Records of class (a), which occupy space to no purpose in the offices and storerooms of the county, must, 3 years from the time they were originally filed (unless a law requires that they be kept for a longer period of time), be destroyed or otherwise disposed of, unless a law prohibits their destruction and unless such records are then in frequent use by the officer having charge of the office in which they are located. Records of class (b) will be retained in the office in which they were required to be filed. Records of classes (c) and (d) must be transferred to the state library 3 years after the date of the filing of such records, unless they are then in frequent use by the officer in charge of the office where they are located. In the event of such transfer, the records of class (c) will be added to the "archives" of the library while those of class (d) will constitute a part of the "collection" of such library.<sup>682</sup>

An act of 1935 created in the executive department of the state a "commission on public records," consisting of the governor, secretary of state, state examiner, director of the state library, and director of the historical bureau. This act is almost identical with the act of 1939 creating a "commission of public records" in each county, except as to the provisions as to what officers shall be ex officio members of the commission.<sup>683</sup>

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<sup>681</sup> Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

<sup>682</sup> Acts 1939; Burns, 1939 suppl., 49-3701 to 49-3710; Baldwin, 1939 suppl., 5492-1 to 5492-

10. See the essay entitled "Commission of Public Records."

<sup>683</sup> Acts 1935; Burns, 1939 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 1540-

10. *Opinions of the Attorney General of Indiana, 1939*, p. 259.

### 3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

The first sessions of the circuit court and the board of county commissioners were held at the home of Associate Judge Jacob Cutler, a log house that stood about a block north of the northwest corner of the public square in Martinsville.<sup>1</sup> Later sessions of the court were held at the home of George H. Beeler, clerk of the circuit court.<sup>2</sup>

The first Morgan County courthouse was begun in 1823 and completed in 1824. It was a two-story log structure, 25' by 35', located on the southwest corner of the public square. The courtroom occupied the lower floor of the building while the upper story was used for jury sessions and other county business of a miscellaneous nature. When not in use for county purposes the building served as a church, schoolhouse, and community house in general.

In 1833 the contract for the construction of a brick courthouse was let to Giles B. Mitchell for \$2,500. The brickwork was completed in 1834 but the woodwork was not finished until 1836. It was a two-story building, 35' by 40'. The cost was met by issuing certificates of indebtedness or county orders, as they were called. The county offices were located in private buildings until 1843 when offices were erected on the public square.<sup>3</sup>

The contract for building the present courthouse, the third of the county, was let in March 1857 to Perry M. Blankenship. It was completed in 1859 at a cost of about \$32,000, bonds being issued to meet the cost of its construction.<sup>4</sup> It is a two and one-half story building 100' by 84', constructed of red brick with corners of Indiana limestone. A hallway extends the length of the lower floor from north to south. On each side of the hallway, offices are arranged in a somewhat irregular manner.

On the morning of March 31, 1876 a fire in the offices and vaults of the auditor and the clerk of the circuit court destroyed many of the early records, including the Commissioners' Records prior to December 1866. Damage to the courthouse was assessed at \$656, which "was promptly paid by

<sup>1</sup> Charles Blanchard, editor, *Counties of Morgan, Monroe and Brown; Indiana*, (Chicago, Illinois, 1884), 15.

<sup>2</sup> *Ibid.*, 16.

<sup>3</sup> *Ibid.*, 19, 20.

<sup>4</sup> Blanchard, *op. cit.*, 20.

the Insurance Companies."<sup>5</sup> As to the possible causes of the fire, one was mentioned and scornfully denied by the editor of the Martinsville *Republican*, who wrote of "the illy repressed glee with which a few leading democrats regarded the calamity. They at once pounced upon it as a trump card for the coming canvass, and industriously began to work up a suspicion that it was the work of certain officials or a Republican ring, to destroy evidence . . . ."<sup>6</sup>

The board of commissioners, acting under authority of a law of January 12, 1852,<sup>7</sup> appointed a commissioner to "Reinstate Records burned &c."<sup>8</sup> The board ordered the clerk to "move his papers and Books to the Court Room of the Court House and that . . . the Books that is [sic] damaged by fire (after or while in use transcribing the same) be put in Boxes properly packed and deposited in the Jail used for females . . . ."<sup>9</sup>

Originally the courtroom occupied the greater part of the second floor. As a result of a fire in 1886 it became necessary to repair the building and the occasion was used to improve the arrangement of the second floor. A hallway was constructed extending the length of the floor from north to south and terminating at the stairways leading from the first floor. On the west side of the hallway is the courtroom, and on the east side a jury room and the office of the county commissioners, separated by a hallway and a flight of stairs leading to the attic.<sup>10</sup> For the alterations in the courthouse, Thomas J. Turner was paid \$1,900.<sup>11</sup>

In 1901 a heating plant was installed in the courthouse at a cost of \$1,982.50.<sup>12</sup> An annex was made on the west side of the building in 1912 at a cost of \$898.<sup>13</sup>

The building is one of the oldest county courthouses in the state. It is no longer as commodius as it once was, but considering its 81 years it is well preserved.

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<sup>5</sup> Martinsville *Republican*, April 6, 1876.

<sup>6</sup> *Ibid.* The Morgan County *Gazette*, April 1, 1876, stated that kerosene had been used by the incendiary.

<sup>7</sup> 2 Rev. Stat. 1852, pt. 4, ch. 8.

<sup>8</sup> Commissioners' Record, 12:429.

<sup>9</sup> *Ibid.*, 12:428.

<sup>10</sup> Martinsville *Republican*, September 16, 1886.

<sup>11</sup> *Ibid.*, July 22, 1886. Commissioners' Record, 16:469.

<sup>12</sup> Commissioners' Record, 20:338.

<sup>13</sup> *Ibid.*, 24:182.

The first jail of the county was a log structure erected on the northwest corner of the public square in 1824. This was used as a place of confinement for the malefactors of the county until it was destroyed by fire in 1826. Sometime later the second jail was erected. Its outer walls were made of brick, its inner walls of heavy logs, and an intervening space was filled with broken stones. This was used until 1859 when the third jail was constructed as a part of the present courthouse.<sup>14</sup>

Sometime before September 1889 the third jail of the county was condemned by the Indiana State Board of Health and steps were taken to build a new one. Sufficient space was not available on the public square and lot No. 1 in block No. 32 located at the corner of Washington and Mulberry streets was purchased from Jefferson K. Scott for the site.<sup>15</sup> To meet the cost of the building, a combined jail and sheriff's home, and to fund the debt already existing, bonds to the value of \$45,000 were ordered sold by the commissioners.<sup>16</sup> The contract was awarded to Thomas J. Turner of Martinsville for the sum of \$21,000.<sup>17</sup> The building, a brick and stone structure containing iron cells, was completed in 1890 and accepted by the board at its December session of that year. The *Martinsville Republican*, commenting on the new building, said: "The County Commissioners this morning received the new jail and it is now county property. On examination of the building, the plans and specifications were found to have been strictly carried out. We now have a jail that will compare with any county jail in the State. It is said to be one of the strongest in the State and it will be impossible for a prisoner to escape unless by the aid of a confederate on the outside."<sup>18</sup>

A room-by-room description of the present housing of county records follows:

*Board of Commissioners.* Sixty-six percent of the records are in the north storage room (attic), 31 percent in the auditor's vault, and 3 percent in the south storage room (attic).

*County Council.* Sixty percent of the records are in the auditor's vault and 40 percent in the north storage room (attic).

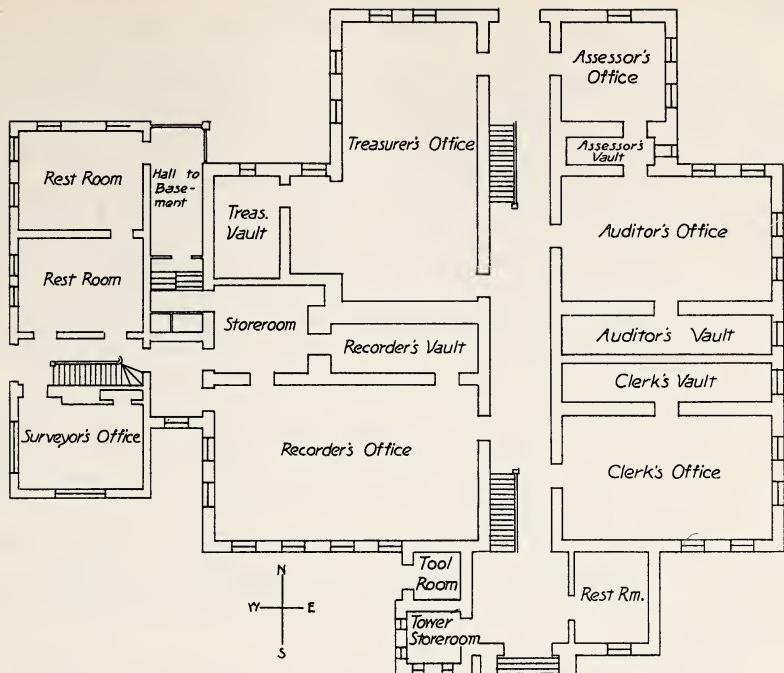
<sup>14</sup> *Ibid.*, 20.

<sup>15</sup> Commissioners' Record, 17:450.

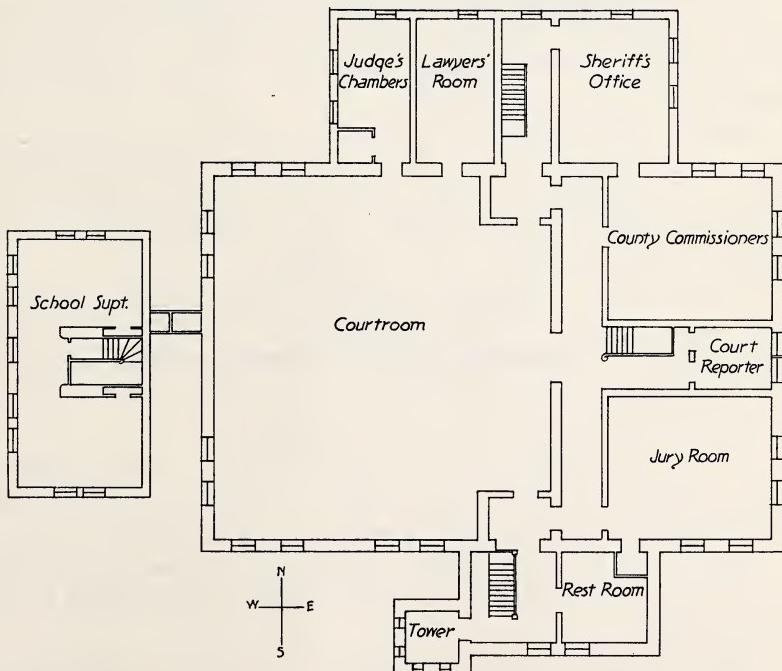
<sup>16</sup> *Ibid.*, 454.

<sup>17</sup> *Ibid.*, 486.

<sup>18</sup> *Martinsville Republican*, December 18, 1890.



FIRST FLOOR, MORGAN COUNTY COURTHOUSE



SECOND FLOOR, MORGAN COUNTY COURTHOUSE

*Clerk of the Circuit Court.* Located on the east side of the first floor, the clerk's office measures 27' by 16'. It contains 20' of wood shelving, 24 metal 5-inch file boxes, and 89 wood 10-inch file drawers. The adjacent clerk's vault measures 27' by 5' and contains 478 metal 4-inch file boxes, 4 metal 15-inch file drawers, and 123' of wood shelving. There is little room for expansion. Three percent of the clerk's records are in the clerk's office, 40 percent in the clerk's vault, 2 percent in the north storage room (attic), and 55 percent in the south storage room (attic).

*Recorder.* The recorder's office, located on the south side of the first floor, measures 35' by 20' and contains 12 metal 6-inch file boxes. In the adjoining recorder's vault, 24' by 5', there are 130' of wood shelving and 32 metal 4-inch file boxes. There is no further space for expansion. Thirty-three percent of the records are in the recorder's office, 65 percent in the recorder's vault, and 2 percent in the north storage room (attic).

*Circuit Court.* Approximately 45 percent of the records are in the clerk's vault, 7 percent in the clerk's office, 8 percent in the courtroom, and 40 percent in the south storage room (attic). One volume is in the judge's private office and 3 volumes in the coroner's office. There is no room for expansion.

*Sheriff.* The sheriff's office, 19' by 13', is on the north side of the second floor and contains 4' of wood shelving. Twenty-four percent of the records are in the sheriff's office, 67 percent in the south storage room (attic), and 9 percent in the office of the county jail.

*County Assessor.* Located in the northeast corner of the first floor, the assessor's office measures 14' by 13'. The adjacent assessor's vault measures 10' by 4'. The assessor's records consist of 1 file drawer in the assessor's office and 1 volume in the south storage room (attic).

*County Board of Review.* Fourteen percent of the records are in the assessor's office, 29 percent in the auditor's vault, and 57 percent in the north storage room (attic).

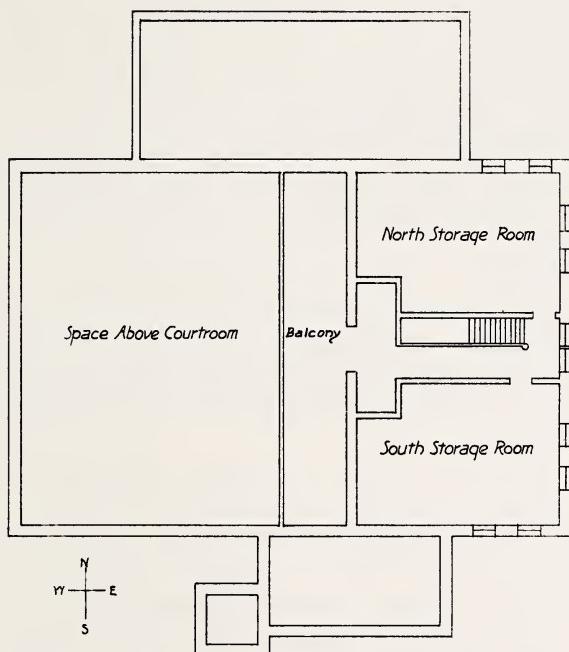
*County Board of Tax Adjustment.* Twenty percent of the records are in the auditor's vault and 80 percent in the north storage room (attic).

*Board of Finance.* One volume is in the auditor's vault.

*County School Fund Board.* Ninety-eight percent of the records are in the auditor's vault, 1 percent in the north storage room (attic), and 1 percent in the south storage room (attic).

*Treasurer.* Located on the north side of the first floor, the treasurer's office is 36' by 24'. The adjoining treasurer's vault, which is used to house certain records at night, measures 12' by 8' and contains 57' of wood shelving. Approximately 20 percent of the records are in the treasurer's office, 56 percent in the north storage room (attic), and 24 percent in the south storage room (attic). Two volumes are in the auditor's vault. There is room for expansion.

*Auditor.* Measuring 27' by 16', the auditor's office is



ATTIC, MORGAN COUNTY COURTHOUSE

located on the east side of the first floor. It contains 19' of wood shelving. The adjacent auditor's vault, 27' by 5', contains 75' of wood shelving and 205 metal 4-inch file boxes. Nearly 18 percent of the records are in the auditor's office, 11 percent in the auditor's vault, 9 percent in the assessor's vault, 47 percent in the north storage room (attic), and 20 percent in the south storage room (attic). One volume is in the clerk's vault. There is some space for expansion of the records.

*Registration Officer.* Ninety-nine percent of the records are in the clerk's office, one percent in the south storage room (attic).

*Board of Primary Election Commissioners, County Board of Canvassers, County Board of Election Commissioners.* Seven percent of the records are in the clerk's office, 6 percent in the south storage room (attic), and 87 percent in the north storage room (attic).

*County Board of Education.* The records, consisting of 2 volumes and 4 bundles, are in the office of the county superintendent of schools.

*County Superintendent of Schools.* Located in the west wing of the second floor, the superintendent's office measures 16' by 33' and contains 125' of wood shelving. Ninety-seven percent of the records are in the superintendent's office and 3 percent in the south storage room (attic).

*County Health Officer.* Eleven percent of the records are in the south storage room (attic) and 89 percent in the physician's office of the incumbent, Dr. Claude White, Mooresville, Indiana.

*Public Health Nurse.* The records are in the nurse's office, in the Martinsville City Hall.

*County Department of Public Welfare.* One volume is in the auditor's vault. The remainder of the records are in the public welfare office, located at 59½ North Jefferson Street, Martinsville, Indiana.

*Surveyor.* Located in the southwest corner of the first floor, the surveyor's office measures 16' by 11'. Ninety-eight percent of the records are in the surveyor's office and 2 percent in the north storage room (attic).

*County Highway Supervisor.* Fifty-three percent of the records are in the office of the surveyor (who is also county highway supervisor), 21 percent in the south storage room (attic), 5 percent in the north storage room (attic), and 21 percent in the auditor's vault.

*County Agricultural Agent.* All the records are in the agricultural agent's office in the Federal Building, Martinsville, Indiana.

*Attic Storage Rooms.* Two rooms in the attic are used for the storage of the oldest records. The north storage room, measuring 27' by 19', contains 262' of wood shelving and 744 pasteboard file boxes. In addition to bound and unbound records, the storage room houses numerous articles of court evidence. The south storage room, measuring 27' by 19', contains 563' of wood shelving and 862 pasteboard file boxes. In both storage rooms, bound volumes are stacked on the floor. There is no space available for expansion.

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## 5. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

The Style Manual of the United States Government Printing Office is the authority followed herein.

agr.	agt.	agricultural agent('s)
alph.		alphabetical(ly)
App.		<i>Appellate Court Reports</i> (State of Indiana)
approx.		approximate(ly)
arr.		arranged
art.		article
assr.		assessor('s)
aud.		auditor('s)
bd.		board
bdl.		bundle(s)
bk.		book
Blackf.		<i>Blackford Reports</i> (Supreme Court of Indiana)
bldg.		building
bsmt.		basement
c.		copyright (before date)
C. C.		County Courthouse
cf.		compare
ch.		chapter
chron.		chronological(ly)
cir. ct.		circuit court
clk.		clerk('s)

## MORGAN COUNTY

comr.	commissioner(s')
Const.	Constitution of Indiana
cor.	coroner
ct. rept.	court reporter
diam.	diameter
et.	and
et al.	<i>et alii</i> -and others
et seq.	<i>et sequentia</i> -and following
ex rel.	<i>ex relatione</i> -upon relation of. (Designates the person at whose instance the state or a public officer is acting)
f. b.	file box(es)
f. d.	file drawer(s)
f1.	floor
hdw.	handwritten
hlth. offr.	health officer('s)
hwy. sup.	highway supervisor('s)
ibid.	<i>ibidem</i> (same reference as that immediately foregoing)
Ind.	Indiana: <i>Indiana Reports</i> (when preceded by the volume number, reference is to the official state supreme court reports)
insp.	inspector
juv.	juvenile
lb.	pound
loc. cit.	<i>loco citato</i> -in the place cited
ms.	manuscript
N.	north
n.	note
n. d.	no date
N. E.	<i>North Eastern Reporter</i> (judicial decisions). 2d-Second series
no.(s)	number(s)
num.	numerical(ly)
off.	office
offr.	officer
op. cit.	<i>opere citato</i> -in the work cited. (After au- thor's name, refers to previous work cited under his name)
p., pp.	page(s)
passim	here and there (referring to references too numerous to enumerate)
pro tem.	<i>pro tempore</i>
prob. comr.	probate commissioner

## ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES 123

pros. atty.	prosecuting attorney('s)
pt.	part
ptd.	printed
pub. welf.	public welfare
pvt.	private
rec.	record
recr.	recorder('s)
reg.	register
Rev. Laws	<i>Revised Laws of the State of Indiana</i>
Rev. Stat.	<i>Revised Statutes of the State of Indiana</i>
rm.	room
S.	south
sec.(s).	section(s)
sher.	sheriff('s)
sic	thus (indicating expression, misspelling, etc., is the same as in the original)
Spec. Sess.	Special Session
sta.	station
stat.	statutes
stor.	storage
sub-bsmt.	sub-basement
sup. ct.	supreme court
suppl.	supplement
supr. ct.	superior court
supt.	superintendent('s)
surv.	surveyor('s)
treas.	treasurer('s)
twp.(s).	township(s)
U. S.	United States
U. S. C.	<i>United States Code</i>
U. S. Stat.	<i>The Statutes at large of the U. S. A.</i>
v.	versus
vol.(s).	volume(s)
vt.	vault
'	foot, feet
"	inch(es) (omitted after dimensions in entries)
x	by, in dimensions
-	to date and continuing

## EXPLANATORY NOTES

The inventory of the records of each branch of the county government is preceded by an essay explaining its legal status and functions.

In some instances, records shown as being legally required do not appear in the inventory. Such omissions reflect the record situation and are not the result of an inadequate survey.

Entries are grouped according to a functional classification, with headings and subheadings according to relative functions and with cross-references to allied subjects. Every entry has two parts or paragraphs: Title and description. Occasionally an entry has a third (cross-reference) paragraph.

I. The title paragraph consists of:

*Entry number.* The entries are numbered consecutively.

*Exact title* (in capitals and small capitals) as it appears on the record. Titles enclosed in brackets are supplied by the Indiana Historical Records Survey, if the volume or file bears no title. Supplementary titles (in capitals and lower-case letters), enclosed in brackets, are also supplied where it is necessary to explain the types of records more fully, or where the exact title borne by the record is incorrect, misleading, or nondescriptive.

Dates of the period covered by the record show inclusive beginning and ending dates, except when a dash in place of an ending date denotes an open record. Missing records are indicated by a break in the dates. In entries where one or more records are continued in another record, the month and day are given for the discontinued record. In entries of open records, when the last entry is not current, a note follows: "Last entry"--with date following. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior or subsequent records, no definite information could be obtained.

*Quantity and labeling*, given in chronological order wherever possible.

*Variations in title.* Current or most recent title used as entry title; if former titles vary, they are shown.

*Changes in keeping records.* Occasionally the county record is discontinued or is kept by some other authority--state or other county office; if changes in keeping records have been made, such changes are indicated and information is given to show by what authority the record is now kept.

II. The description consists of:

A statement of the nature, contents, and purpose of the record, with a summary of the column headings or subjects

treated. The current record, except as otherwise noted, is described. The contents over a long period of years may themselves vary; therefore, over the entire period the description may vary to some degree. In the description of map and plat records, the scale and the names of author and publisher are given whenever available. No mention thereof denotes that these data are not known.

*Method of arrangement:* Chronological, topical, or other system.

*Method of indexing,* pertaining to self-contained indexes. Separate indexes are noted also, with a cross-reference thereto.

*Nature of recording:* Records are shown as handwritten, typewritten, or printed; maps and plats are shown as drawn, blueprinted, or printed.

*Condition.* Omitted if good or excellent.

*Number of pages* averaged for a series.

*Size of volumes* in the order of height, width, and thickness, averaged for a series; of file boxes and file drawers, in the order of height, width, and depth. It is given in inches in all instances; hence the inch sign is omitted.

*Location.* The place of custody (the room in which the records are located) is in the courthouse unless another building is specified in the entry. The locations given are those effective at the time the survey was made.

### III. Cross-references:

Title-line cross-references are used to show continuity of a record series which has been kept separately for a period and with other records for different periods of time. An example is that in the title-line of entry 22: "1900- in Commissioners' Record, entry 2." They are also used in all artificial entries, those set up to cover records which must be shown separately under their proper office even though they are kept in files, or records appearing elsewhere in the inventory, as, for example, the title-line cross-reference in entry 27: "In Replevin & Possession, Receivers, Trustees, Cost and Appeal and Official Bonds, entry 194." In both instances the description of the master entry or entry of miscellaneous contents shows the title and number of the entry in which the record is described (the entry from which the title-line cross-reference is made), as, for example, in entry 7: "Also contains: Retailers' Bonds, 1916-17, entry 9." Dates shown in such a cross-reference are only for the part or parts of the record contained therein, and are shown only when they vary from those of the master entry.

Separate third-paragraph cross-references from entry to entry, and *See also* references with subject headings or subheadings are used to guide the reader to prior, subsequent, or related records which are not parts of the same series.

In the footnotes of essays the chapter and section numbers of the *Laws of the State of Indiana* (cited as Acts) are omitted when parallel Burns and Baldwin section numbers are cited; only the year of the law cited is given, as, for example, "Acts 1919; Burns 36-706; Baldwin 8899." The history lines for both Burns and Baldwin sections give the full citations. This method has been found necessary to prevent the footnotes from becoming unwieldy and occupying too much space on each page of the multigraphed volume.

## PART B. COUNTY OFFICES AND THEIR RECORDS

### I. BOARD OF COMMISSIONERS

#### LEGAL STATUS

The board of commissioners of Morgan County, which has existed since 1822 (except September 6, 1824 until January 5, 1828, substituted by a board of justices), is composed of three members<sup>1</sup> elected for 3-year terms commencing in different years.<sup>2</sup> The county is divided into three districts; and one commissioner is elected from the residents of each district by the voters of the whole county.<sup>3</sup> A member receives a certificate of election from the clerk of the circuit court<sup>4</sup> and remains in office until his successor has been elected and qualified.<sup>5</sup> Each commissioner must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;<sup>6</sup> must reside within the county after his election; must not hold any other lucrative office;<sup>7</sup> and must take an oath to support the state and federal constitutions and faithfully discharge his duties.<sup>8</sup> A member receives a regular salary of \$320 per year,<sup>9</sup> plus 6 cents for each mile necessarily traveled by him in the conduct of county business.<sup>10</sup>

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<sup>1</sup> 1 Rev. Stat. 1852; Acts 1939; Burns 26-601; Baldwin 5215. See footnote 16 herein.

County commissioners are not constitutional officers. *State ex rel. Workman v. Goldthait* (1909), 172 Ind. 210, 87 N. E. 133.

<sup>2</sup> 1 Rev. Stat. 1852; Burns 26-603; Baldwin 5217. Acts 1885; Burns 26-604; Baldwin 5218.

<sup>3</sup> 1 Rev. Stat. 1852; Burns 26-602; Baldwin 5216.

<sup>4</sup> Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096. The members are not commissioned by the governor. *Ibid.*

<sup>5</sup> Const. 1851, art. 15, sec. 3. Acts 1885; Burns 26-604; Baldwin 5218.

<sup>6</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

<sup>7</sup> Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9, art. 6, sec. 6.

<sup>8</sup> Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 26-605; Baldwin 5219.

<sup>9</sup> Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>10</sup> Acts 1933; Burns 49-1013; Baldwin 7543.

For sufficient legal grounds any county commissioner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>11</sup> If a commissioner is convicted of a felony the judgment of conviction must declare his office vacant.<sup>12</sup>

Any vacancy in the office of county commissioner, or any prospective vacancy caused by death or resignation before time for commencement of the term of a commissioner-elect, is filled at any time through appointment by the commissioners in office. In the event of a tie vote the auditor casts the deciding vote.<sup>13</sup>

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Morgan." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and powers incident to corporations.<sup>14</sup> In legal contemplation the board is the county.<sup>15</sup>

Since the organization of Morgan County in 1822 the general administrative control of county matters has been vested in a board of commissioners, composed of three members (individually known as county commissioners) elected by the voters of the whole county from the residents of three commissioners' districts, subject to exceptions herein stated. From September 6, 1824 until January 5, 1828 county business was transacted by a board of justices composed of all the justices of the peace in the county. Since 1899 many powers of a fiscal nature (including the making of tax levies) previously exercised by the board of commissioners have been vested exclusively in the county council.<sup>16</sup>

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<sup>11</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. Bateman v. State (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

<sup>12</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>13</sup> 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

<sup>14</sup> 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220.

<sup>15</sup> Dice v. County Board of Finance (1934), 99 Ind. App. 405, 192 N. E. 770.

<sup>16</sup> Acts 1816-17, ch. 15, Acts 1817-18 (general), ch. 41. Acts 1821-22, ch. 24. Rev. Laws 1824, chs. 15, 16. Acts 1826-27, ch. 13. Acts 1827-28, ch. 13. Rev. Laws 1831, ch. 20. Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, art. 1. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 17, 18, 21, 22. Acts 1899; Burns 26-501 to 26-551; Baldwin 5365 to 5414. 1 Rev. Stat. 1852; Burns 26-601 to 26-639; Baldwin 5215 *et seq.* Snider v. State *ex rel.* Leap (1934), 206 Ind. 474, 190 N. E. 178. See the essay entitled "County Council."

## FUNCTIONS AND RECORDS

The board of commissioners may purchase and sell property for the county;<sup>17</sup> has control of the county property;<sup>18</sup> has charge of the purchase of materials and supplies needed by the county officials;<sup>19</sup> has charge of the construction and maintenance of roads,<sup>20</sup> bridges, culverts,<sup>21</sup> waterways,<sup>22</sup> and county buildings;<sup>23</sup> has the power of eminent domain;<sup>24</sup> provides office rooms for county officers;<sup>25</sup> prepares annual budget estimates;<sup>26</sup> may authorize tax refunds;<sup>27</sup> allows claims against the county;<sup>28</sup> issues bonds;<sup>29</sup> may establish or abolish townships and election precincts, and change the

<sup>17</sup> Acts 1899; Burns 26-534; Baldwin 5399. Acts 1907; Burns 26-2008; Baldwin 5107. Acts 1899; Burns 28-250 to 28-257; Baldwin 6602 to 6609.

<sup>18</sup> 1 Rev. Stat. 1852; Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

Insurance. Potts v. Bennett (1895), 140 Ind. 71, 39 N. E. 518; Barnhill v. Woodard (1901), 26 Ind. App. 482, 59 N. E. 1085.

<sup>19</sup> Acts 1899; Burns 26-535; Baldwin 5400. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

<sup>20</sup> Acis 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

<sup>21</sup> Acts 1905, 1907, 1929; Burns 36-1901 *et seq.*; Baldwin 9236 *et seq.* Acts 1905, 1911, 1913; Burns 36-2001 *et seq.*; Baldwin 9191 *et seq.* Acts 1920 (Spec. Sess.); Burns 36-2404; Baldwin 9154.

The board may purchase toll bridges. Acts 1861; Burns 26-1415; Baldwin 5329.

<sup>22</sup> Acts 1883; Burns 26-1401 to 26-1412; Baldwin 5313 to 5323. Acts 1873; Burns 26-1413, 26-1414; Baldwin 5291, 5292. Acts 1905; Burns 68-101 to 68-107; Baldwin 16324 to 16330.

<sup>23</sup> 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1907; Burns 26-2002, 26-2004; Baldwin 5101, 5103.

<sup>24</sup> Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1899; Burns 26-2101 to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

<sup>25</sup> 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1899; Burns 26-625; Baldwin 5241. 1 Rev. Stat. 1852; Burns 49-3202; Baldwin 5470.

<sup>26</sup> Acts 1899; Burns 26-516, 26-519; Baldwin 5380, 5383.

Estimates for road maintenance are under control of the board and may be changed without the approval of the surveyor or county highway supervisor. Bateman v. State (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

<sup>27</sup> Acts 1919, 1927, 1929; Burns 64-2819 to 64-2821; Baldwin 15881, 15882, 15885.

<sup>28</sup> 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1879 (Spec. Sess.); Burns 26-807; Baldwin 5256.

Cancelation of allowances and warrants issued thereunder. Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

<sup>29</sup> 1 Rev. Stat. 1852, Acts 1869; Burns 26-1001 *et seq.*; Baldwin 5242 *et seq.*

boundary lines thereof;<sup>30</sup> provides rooms, booths, and ballot boxes for elections, and may provide voting machines;<sup>31</sup> may establish and maintain libraries<sup>32</sup> and hospitals;<sup>33</sup> may establish a workhouse and employ a superintendent thereof;<sup>34</sup> inspects the county jail<sup>35</sup> and poor asylum;<sup>36</sup> may prescribe regulations governing the work of prisoners outside the jail;<sup>37</sup> maintains standards of weights and measures;<sup>38</sup> may order the establishment of a permanent meridian line in the county;<sup>39</sup> may regulate traffic on the county highways;<sup>40</sup> may enforce regulations of the Administrative Building Council of Indiana;<sup>41</sup> may determine the question of public utility of a levee petitioned for by a levee association;<sup>42</sup> may make special assessments to pay the cost of construction of roads;<sup>43</sup> may subscribe for newspapers printed in the county and require the recorder to preserve copies thereof;<sup>44</sup> may reproduce mutilated or decayed records;<sup>45</sup> may administer oaths, enforce its orders, and punish for contempt;<sup>46</sup> may authorize the payment of bounties;<sup>47</sup> may offer rewards in case of murder or

<sup>30</sup> Townships. Acts 1859, 1939; Burns, 1939 suppl., 26-701; Baldwin, 1939 suppl., 16055. Acts 1919, 1939; Burns, 1939 suppl., 26-705; Baldwin, 1939 suppl., 16059.

Election precincts. Acts 1933; Burns 29-319; Baldwin 7317. Acts 1889, 1907; Burns 29-801 et seq.; Baldwin 7089 et seq. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

<sup>31</sup> Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1889; Burns 29-1101; Baldwin 7101. Acts 1897; Burns 29-1121; Baldwin 7135.

<sup>32</sup> Acts 1917, 1921, 1927; Burns 41-510; Baldwin 10321. *Opinions of the Attorney General of Indiana, 1939*, p. 124.

<sup>33</sup> Acts 1903; Burns 22-3201; Baldwin 4507.

<sup>34</sup> Acts 1879 (Spec. Sess.); Burns 13-1101, 13-1102; Baldwin 13759, 13760.

<sup>35</sup> Acts 1909; Burns 13-1008; Baldwin 13460.

<sup>36</sup> 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

<sup>37</sup> Acts 1905; Burns 9-2229; Baldwin 2336.

<sup>38</sup> 1 Rev. Stat. 1852; Burns 69-101.

<sup>39</sup> Acts 1895; Burns 49-3307; Baldwin 5513.

<sup>40</sup> Acts 1919; Burns 36-706; Baldwin 8899.

<sup>41</sup> Acts 1923; Burns 20-401, 20-408; Baldwin 4603, 4610.

<sup>42</sup> Acts 1913, 1927; Burns 27-915; Baldwin 10241.

<sup>43</sup> Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917,

<sup>44</sup> 1 Rev. Stat. 18152; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

<sup>45</sup> Acts 1877; Burns 26-634, 26-635; Baldwin 5339, 5340.

<sup>46</sup> 1 Rev. Stat. 1852; Burns 26-619; Baldwin 5233.

<sup>47</sup> 1 Rev. Stat. 1852, Acts 1875, 1883, 1911; Burns 26-1101 to 26-1103, 26-1105, 26-1106; Baldwin 5288, 3802, 5289, 5293, 5294.

lynching;<sup>48</sup> examines the treasurer's quarterly reports,<sup>49</sup> and makes annual settlements with him;<sup>50</sup> annually prepares a statement of the receipts and disbursements of the previous year, and causes it to be published and posted;<sup>51</sup> may approve (subject to further approval by the state board of accounts) the installation of a modern tax-accounting system in the offices of the auditor and treasurer;<sup>52</sup> may authorize county officers to use a photographic process for recording deeds, mortgages, and other instruments;<sup>53</sup> may license ferries<sup>54</sup> and fix ferry rates;<sup>55</sup> may authorize elections for the incorporation of towns;<sup>56</sup> may authorize a town to annex unplatted lots;<sup>57</sup> may specify "what kind of animals shall be allowed to pasture or run at large on the uninclosed lands or public commons" within the bounds of any township in the county;<sup>58</sup> is authorized to appoint a county highway supervisor,<sup>59</sup> a county health officer,<sup>60</sup> a public health nurse,<sup>61</sup> a county inspector of weights and measures,<sup>62</sup> a superintendent of the poor asylum,<sup>63</sup> food inspectors (beef, flour, pork, salt, and

<sup>48</sup> Acts 1899; Burns 26-1104; Baldwin 5290.

<sup>49</sup> Acts 1895, 1913; Burns 49-1402; Baldwin 7578.

<sup>50</sup> Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

<sup>51</sup> Acts 1899; Burns 26-546; Baldwin 5411.

<sup>52</sup> Acts 1937; Burns, 1939 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3

<sup>53</sup> Acts 1927; Burns 49-3207; Baldwin 14667.

<sup>54</sup> Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443.

<sup>55</sup> Acts 1881 (Spec. Sess.), 1897; Burns 36-2615; Baldwin 7705.

<sup>56</sup> Acts 1905; Burns 48-105; Baldwin 11328.

<sup>57</sup> Acts 1909; Burns 48-707, 48-708; Baldwin 11340, 11341.

<sup>58</sup> 1 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 16-101, 16-102; Baldwin 5028, 5029.

<sup>59</sup> Acts 1933; Burns 36-1110; Baldwin 8708. See the essay entitled "County Highway Supervisor."

<sup>60</sup> Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1. See the essay entitled "County Health Officer."

<sup>61</sup> Acts 1935; Burns, 1939 suppl., 35-123; Baldwin, 1935 suppl., 8404-6. See the essay entitled "Public Health Nurse."

<sup>62</sup> Acts 1911, ch. 263, sec. 3. Acts 1913, ch. 161, sec. 1. Acts 1925; Burns 69-104, 69-107; Baldwin 16335, 16338.

<sup>63</sup> Acts 1927; Burns 22-3009; Baldwin 4354. Acts 1899, 1913; Burns 52-204; Baldwin 13365.

hay),<sup>64</sup> an appraiser of state lands,<sup>65</sup> certain justices of the peace,<sup>66</sup> fence viewers,<sup>67</sup> five members of a county planning commission,<sup>68</sup> three members of the county public library board,<sup>69</sup> and three members of a miners' examination board;<sup>70</sup> may employ a county attorney,<sup>71</sup> tax ferrets,<sup>72</sup> a civil engineer (if the surveyor is not a competent civil engineer),<sup>73</sup> bridge superintendents,<sup>74</sup> road viewers and reviewers,<sup>75</sup> a county veterinarian,<sup>76</sup> a physician for poor persons (in county institutions) and prisoners;<sup>77</sup> may authorize the appointment of deputies and assistants of county officers;<sup>78</sup> approves

<sup>64</sup> Acts 1818-19, ch. 15, sec. 1. Rev. Laws 1824, ch. 109, sec. 4. Rev. Laws 1831, ch. 50, secs. 1-6 Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 27. 1 Rev. Stat. 1852; Burns 35-1901; Baldwin 9468

<sup>65</sup> Acts 1889; Burns 62-207; Baldwin 15273.

<sup>66</sup> Acts 1891, 1923; Burns 5-109, 5-110; Baldwin 1833, 1834.

<sup>67</sup> Rev. Laws 1824, ch. 15, sec. 7; ch. 38, secs. 2, 3; ch. 69, sec. 3. Rev. Stat. 1838, ch. 21, secs. 20-23. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69-71. Acts 1877 (Spec. Sess.); Burns 30-605; Baldwin 7655.

<sup>68</sup> Acts 1935; Burns, 1939 suppl., 26-2301; Baldwin, 1935 suppl., 5205-1.

<sup>69</sup> Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510; Baldwin, 1939 suppl., 10321.

<sup>70</sup> Acts 1923; Burns 46-1001; Baldwin 11073.

<sup>71</sup> Acts 1917; Burns 10-3103; Baldwin 822. Acts 1899; Burns 26-519; Baldwin 5383.

<sup>72</sup> Acts 1905; Burns 64-2830; Baldwin, 1935 suppl., 15696-1.

<sup>73</sup> Acts 1919; Burns 36-306, 36-505; Baldwin 8864, 8883. Acts 1905, 1907; Burns 36-1205, 36-1301; Baldwin 8808, 8787. Acts 1921; Burns 36-1410; Baldwin 8913. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>74</sup> Acts 1818-19, ch. 12, sec. 1. Rev. Laws 1824, ch. 87, sec. 27. Rev. Stat. 1838, ch. 91, sec. 57. Rev. Stat. 1843, ch. 16, sec. 62. 1 Rev. Stat. 1852, chs. 16, 92. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903; Burns 36-2003; Baldwin 9193. Acts 1895; Burns 36-2217; Baldwin 9232.

<sup>75</sup> Acts 1821-22, ch. 25, sec. 5. Rev. Laws 1824, ch. 87, secs. 4, 5, 7, 9, 24. Rev. Stat. 1838, ch. 91, secs. 4, 13, 18, 71, 72. Rev. Stat. 1843, ch. 16, secs. 13, 33, 39. 1 Rev. Stat. 1852, ch. 48, secs. 9, 15, 19, 23, 28, 31, 46. Acts 1859, ch. 64. Acts 1865, ch. 8, secs. 3, 4. Acts 1867, ch. 61, sec. 3. Acts 1877, ch. 47, secs. 2, 6. Acts 1905, 1907, 1911, 1913; Burns 36-201, 36-216, 36-220, 36-221, 36-223, 36-224, 36-1205, 36-1301; Baldwin 8756, 8773, 8776, 8777, 8780, 8781, 8808, 8787. Acts 1921; Burns 36-1430; Baldwin 8933. Acts 1909; Burns 36-805; Baldwin 9113. Acts 1935; Burns, 1939 suppl., 36-2704; Baldwin, 1935 suppl., 14775-4.

<sup>76</sup> Acts 1925; Burns 16-609; Baldwin 3872. Acts 1915; Burns 16-703; Baldwin 3853.

<sup>77</sup> 1 Rev. Stat. 1852, ch. 3, sec. 8. Acts 1859, ch. 5, sec. 1. Acts 1899; Burns 26-533; Baldwin 5398. Lamar v. Board of County Comrs. (1892), 4 Ind. App. 191, 30 N. E. 912.

<sup>78</sup> Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Acts 1937; Burns, 1939 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

the official bonds<sup>79</sup> of the auditor,<sup>80</sup> clerk of the circuit court,<sup>81</sup> coroner,<sup>82</sup> county highway supervisor,<sup>83</sup> recorder,<sup>84</sup> sheriff,<sup>85</sup> surveyor,<sup>86</sup> and treasurer;<sup>87</sup> may remove a delinquent county treasurer after suit on his official bond has been commenced;<sup>88</sup> and may appoint successors in case of any vacancy in the offices of auditor, clerk of the circuit court, coroner, county assessor, surveyor, sheriff, treasurer,<sup>89</sup> and any officers originally appointed to office by the board of commissioners.<sup>90</sup> Appointments made by the board are certified by the auditor.<sup>91</sup>

The members of the board of commissioners are ex officio members of the board of finance.<sup>92</sup> The president of the board of commissioners is an ex officio member of the commission of public records.<sup>93</sup>

The three county commissioners are members of the county hospital governing board and serve with eight members appointed by the judge of the circuit court.<sup>94</sup>

Formerly the board of commissioners audited the books and accounts of all Morgan County officials handling county funds (1853 to 1909);<sup>95</sup> granted poll tax exemptions (1824 to

<sup>79</sup> Acts 1851-52; Burns 49-123; Baldwin 13093.

<sup>80</sup> Acts 1889; Burns 49-3003; Baldwin 5417.

<sup>81</sup> Acts 1875; Burns 49-2703; Baldwin 1430.

<sup>82</sup> 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

<sup>83</sup> Acts 1925; Burns 69-106; Baldwin 16337.

<sup>84</sup> Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

<sup>85</sup> Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

<sup>86</sup> Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

<sup>87</sup> 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548.

<sup>88</sup> 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

<sup>89</sup> 1 Rev. Stat. 1852; Burns 49-405; Baldwin 13104. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>90</sup> See the authorities cited above for the appointment of officers by the board of commissioners.

<sup>91</sup> 1 Rev. Stat. 1852; Burns 49-204; Baldwin 13098.

<sup>92</sup> Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. See the essay entitled "Board of Finance."

<sup>93</sup> Acts 1939, ch. 91, sec. 1. See the essay entitled "Commission of Public Records."

<sup>94</sup> Acts 1903, 1939; Burns, 1939 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

<sup>95</sup> 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. Acts 1895; Burns 49-1409; Baldwin 7584. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 13862. Interview of May 18, 1939 with E. P. Brennan, state examiner.

1919);<sup>96</sup> annually awarded scholarships to Indiana University (1834 to 1919) and Purdue University (1877 to 1935);<sup>97</sup> received reports of the circuit judge concerning his examination of the office of the clerk of the circuit court (1852 to 1909);<sup>98</sup> and appointed an appraiser (taxes, 1841 to 1872),<sup>99</sup> assessors (taxes, 1824 to 1841),<sup>100</sup> constables (1822 to 1853),<sup>101</sup> a county agent (1822 to 1858),<sup>102</sup> election inspectors (1822 to 1929),<sup>103</sup> a drainage commissioner (1885 to 1933),<sup>104</sup> listers (taxes 1822 to 1831),<sup>105</sup> overseers of the poor (1822 to 1853),<sup>106</sup> a poundkeeper (1822 to 1853),<sup>107</sup>

<sup>96</sup> Rev. Laws 1824, ch. 86, sec. 1. 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). *Opinions of the Attorney General of Indiana, 1836*, p. 83.

<sup>97</sup> Acts 1833-34, ch. 17. Rev. Stat. 1838, ch. 21, secs. 33, 34. Rev. Stat. 1843, ch. 7, sec. 34. 1 Rev. Stat. 1852, ch. 114, sec. 10. Acts 1877 (Spec. Sess.), ch. 29, secs. 1, 2. Acts 1919, ch. 185, sec. 1. Acts 1929, ch. 2, sec. 1. Acts 1935, ch. 184, secs. 1, 2.

<sup>98</sup> 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439.

The examination of the clerk's office is now made by the state examiner instead of the circuit judge. Acts 1909; Burns 60-211; Baldwin 13862. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>99</sup> Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

<sup>100</sup> Rev. Laws 1824, ch. 86, secs. 5-7, 29, 42. Rev. Laws 1831, ch. 81, secs. 3, 4. Rev. Stat. 1838, ch. 21, sec. 12. Rev. Stat. 1843, ch. 4, secs. 2, 160; ch. 5, sec. 1; ch. 7, sec. 61.

<sup>101</sup> Acts 1817-18 (general), ch. 31, sec. 1. Rev. Laws 1824, ch. 13, secs. 1, 6; ch. 15, sec. 7. Rev. Stat. 1838, ch. 19, secs. 1, 5; ch. 21, secs. 20-22. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 70, 71. 1 Rev. Stat. 1852, ch. 115, sec. 4. 2 Rev. Stat. 1852, pt. 4, ch. 2, sec. 1.

<sup>102</sup> Acts 1817-18 (Spec. Sess.), ch. 1, sec. 2; ch. 2, sec. 1. Rev. Laws 1824, ch. 93, secs. 1, 4. Rev. Stat. 1838, ch. 93, sec. 4. Acts 1841-42 (general), ch. 67, sec. 2. Rev. Stat. 1843, ch. 4, sec. 48. Acts 1851-52, ch. 2.

<sup>103</sup> Acts 1816-17, ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, sec. 3. Rev. Laws 1824, ch. 15, sec. 7; ch. 35, sec. 1; ch. 36, sec. 5. Rev. Laws 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, secs. 20, 22. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69, 71. 1 Rev. Stat. 1852, ch. 31, secs. 3, 4. Acts 1881 (Spec. Sess.), ch. 47, secs. 10, 11. Acts 1889, ch. 87, secs. 3, 4. Acts 1897, ch. 131. Acts 1901, ch. 201.

These laws were superseded as to primary elections by an act of 1915 and as to general elections by an act of 1929. Acts 1915, ch. 105, secs. 5, 7. Acts 1929, ch. 150.

<sup>104</sup> Acts 1885 (Spec. Sess.), ch. 40, sec. 1. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, secs. 1, 21. Acts 1933, ch. 264, sec. 81.

<sup>105</sup> Acts 1816-17, ch. 19, sec. 1. Acts 1817-18 (general), ch. 42, sec. 1. Acts 1818-19, ch. 8, sec. 3. Rev. Laws 1824, ch. 15, sec. 7. Rev. Laws 1831, ch. 81, secs. 3, 4.

<sup>106</sup> Acts 1817-18 (general), ch. 14, sec. 1. Rev. Laws 1824, ch. 15, sec. 7; ch. 72, secs. 1, 2. Rev. Stat. 1838, ch. 21, secs. 20-22; ch. 79, sec. 9. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69-71. 1 Rev. Stat. 1852, ch. 81, secs. 1, 2; ch. 110, secs. 5, 17.

<sup>107</sup> Acts 1817-18 (general), ch. 68, sec. 8. Rev. Laws 1824, ch. 15, sec. 7; ch. 39, sec. 11.

road commissioners (1822 to 1865),<sup>108</sup> road supervisors (township or district, 1822 to 1858),<sup>109</sup> school superintendents and trustees (lands and funds, 1822 to 1853),<sup>110</sup> a tax collector (1824 to 1841),<sup>111</sup> tobacco inspectors (1822 to 1857),<sup>112</sup> and a treasurer (1822 to 1841).<sup>113</sup>

The board of commissioners has always had the power to establish, construct, and maintain roads. From 1879 until 1913 the board constituted, *ex officio*, a board of turnpike directors for the management and control of all free turnpikes in the county. The board divided the county into three districts, and each director had personal supervision of one district.<sup>114</sup> Since 1913 the surveyor, county highway superintendent (1913 to 1933), and county highway supervisor (1933 to date), acting under the control of the board of commissioners, have had charge of the construction and maintenance of county highways.<sup>115</sup>

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Rev. Stat. 1838, ch. 21, sec. 27. Rev. Stat. 1843, ch. 4, secs. 49, 146, 160; ch. 7, sec. 20. 1 Rev. Stat. 1852, ch. 92.

<sup>108</sup> Acts 1816-17, ch. 8, sec. 4. Acts 1822-23, ch. 25, sec. 5. Rev. Stat. 1838, ch. 91, secs. 66, 67, 75, 79. Rev. Stat. 1843, ch. 16, secs. 5, 6. 1 Rev. Stat. 1852, ch. 48, secs. 1-4, 46; ch. 115, sec. 4. Acts 1865 (Spec. Sess.), ch. 29, secs. 2, 3.

<sup>109</sup> Acts 1817-18 (general), ch. 43, secs. 11, 21. Acts 1822-23, ch. 76, sec. 2. Rev. Laws 1824, ch. 87, sec. 12. Rev. Stat. 1838, ch. 91, secs. 34-38. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69, 71; ch. 16, secs. 75-79. 1 Rev. Stat. 1852, ch. 102, secs. 1-4. Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1881 (Spec. Sess.), ch. 63, secs. 1, 25. Acts 1905, ch. 167, sec. 79. Acts 1919, ch. 112, sec. 18. Acts 1921, ch. 262, sec. 47.

<sup>110</sup> Acts 1816-17, ch. 12, sec. 1. Acts 1817-18 (general), ch. 49, sec. 1. Rev. Laws 1824, ch. 15, sec. 7; ch. 22, secs. 2, 3; ch. 97, sec. 1. Rev. Laws 1831, ch. 20, sec. 25. Rev. Stat. 1838, ch. 21, sec. 25. Rev. Stat. 1843, ch. 14, sec. 31. 1 Rev. Stat. 1852, ch. 97.

<sup>111</sup> Rev. Laws 1824, ch. 86, secs. 18, 42. Rev. Laws 1831, ch. 81, secs. 17, 18. Acts 1840-41 (general), ch. 4, secs. 1, 13-22.

<sup>112</sup> Acts 1816-17, ch. 11, sec. 4. Rev. Laws 1824, ch. 109, sec. 4. Rev. Laws 1831, ch. 50, secs. 1-6. Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 27. 1 Rev. Stat. 1852, ch. 55, sec. 1.

The power to appoint tobacco inspectors was transferred to the judge of the circuit court in 1857. Acts 1857; Burns 67-308; Baldwin 9461.

<sup>113</sup> Acts 1816-17, ch. 17, secs. 2, 3. Acts 1817-18 (general), ch. 44, secs. 2, 3. Rev. Laws 1824, ch. 15, sec. 7; ch. 23, secs. 1, 2. Acts 1840-41 (general), ch. 4, secs. 1, 13-22. Rev. Stat. 1843, ch. 4, secs. 2, 18.

<sup>114</sup> Acts 1879 (Spec. Sess.), ch. 115, sec. 1.

<sup>115</sup> Acts 1901, ch. 228. Acts 1911, ch. 105. Acts 1913, ch. 40, sec. 1; ch. 330, sec. 1. Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708. See the essays entitled "Surveyor" and "County Highway Supervisor."

The county council and the board of commissioners, acting together, approve the acceptance of lands donated to the county for purposes of a public forest;<sup>116</sup> hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;<sup>117</sup> determine, on proper petition, the order in which county road projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;<sup>118</sup> and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.<sup>119</sup>

A regular session of the board of commissioners begins on the 1st Monday of each month and continues so long as the necessary business of the session requires.<sup>120</sup> Special sessions are held when called by the auditor, or, in case of death or disqualification, by the clerk of the circuit court or the recorder, respectively.<sup>121</sup> Any two members constitute a quorum to do business.<sup>122</sup> The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.<sup>123</sup> All meetings of the board are open to the public.<sup>124</sup> The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable, with the rules for conducting business in the circuit court.<sup>125</sup> Whenever, in the trial of any cause, two or more members of the board are disqualified, the judge of the circuit court appoints special commissioners to act in their places.<sup>126</sup> Members of the board of commissioners are privileged from arrest and from obeying any subpoena to testify, during any session of the board and while going to and returning from the same.<sup>127</sup>

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<sup>116</sup> Acts 1929; Burns 32-105; Baldwin 4879.

<sup>117</sup> Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

<sup>118</sup> Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

<sup>119</sup> Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

<sup>120</sup> Acts 1899; Burns 26-550; Baldwin 5221.

<sup>121</sup> Acts 1863, 1899; Burns 26-607 to 26-610; Baldwin 5222 to 5225.

<sup>122</sup> 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

<sup>123</sup> 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

<sup>124</sup> 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

<sup>125</sup> 1 Rev. Stat. 1852; Burns 26-617; Baldwin 5228.

<sup>126</sup> Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

<sup>127</sup> 1 Rev. Stat. 1852; Burns 3-401; Baldwin 721.

Though appeals may be taken to the circuit court to review all judicial decisions of the board, no appeal lies from the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.<sup>128</sup> Appeals are specifically provided for in proceedings concerning claims against the county,<sup>129</sup> removal of the county seat,<sup>130</sup> licensing of public ferries,<sup>131</sup> establishment or modification of townships,<sup>132</sup> and in highway matters.<sup>133</sup>

The auditor, as clerk of the board, attends its meetings, keeps a record of its proceedings, and preserves in his office all the books and papers touching the business of the county.<sup>134</sup>

#### PROCEEDINGS AND REPORTS

1. COMMISSIONERS' DOCKET, 1874-1905. 10 vols. (7-14, 16, 17). Discontinued.

Docket of causes filed in commissioners' court, showing date of filing; names of principals; nature, number, and disposition of cause; and volume and page reference to Commissioners' Record, entry 2. Arr. chron. by dates of filing. No index. Hdw. 280 pp. 18 x 12 x 2½. S. stor. rm., attic.

2. COMMISSIONERS' RECORD, Dec. 1866-. 22 vols. (3 vols. unlabeled; 12-30).

Minutes of meetings of board of commissioners, showing date and place of meeting, names of members present, subjects discussed, and action taken. Also contains: Bidder's Record, 1867-1934, entry 12; Commissioners' Claim and Allowance Record, 1867-70, entry 16; and Road Record, 1900-, entry 22. Arr. chron. by dates of meetings. Indexed alph. by subjects discussed. 1867-Jan. 7, 1915, hdw.; Jan. 8, 1915-, typed. Aud. vt.

<sup>128</sup> 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. State *ex rel.* Starry v. Board of County Comrs. (1893), 136 Ind. 207, 35 N. E. 1100; State *ex rel.* Sink v. Circuit Court (1938), 214 Ind. 323, 15 N. E. (2d) 624.

<sup>129</sup> Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

<sup>130</sup> Acts 1885 (Spec. Sess.); Burns 26-410.

<sup>131</sup> 1 Rev. Stat. 1852; Burns 36-2615; Baldwin 7705.

<sup>132</sup> Acts 1859, 1939; Burns, 1939 suppl., 26-701; Baldwin, 1939 suppl., 16055. State *ex rel.* Sink v. Circuit Court (1938), 214 Ind. 323, 15 N. E. (2d) 624.

<sup>133</sup> Acts 1905; Burns 36-1501; Baldwin 8858.

<sup>134</sup> 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

Docketing claims. Acts 1897; Burns 26-806; Baldwin 5256.

3. COMMISSIONERS' COURT [DOCUMENTS], 1878-. 356 f. b. Original documents filed in commissioners' court, including petitions, remonstrances, reports, appointments, and contracts, showing dates of document and filing, names of principals, and nature of action. Also contains: Liquor License Applications, 1878-99, entry 7; Contractors' Bids and Bonds, 1878-98, entry 13; and Road Petitions, 1917-, entry 23. Arr. chron. by dates of filing. No index. Hdw. and typed. 7 x 4 x 9. 316 f. b., 1878-1928, N. stor. rm., attic; 40 f. b., 1929-, aud. vt.

4. HORSE THIEF DETECTIVE ASSOCIATION, 1915-25. 2 f. b. Petitions to board of commissioners by officials of horse thieves' detective associations requesting powers of constable be granted to members and certificates be issued by auditor granting said powers to members, shewing dates of petition, approval, and certificate; name and address of member; association number; and number assigned to member. Arr. chron. by dates of certificates. No index. Hdw. 7 x 4 x 9. N. stor. rm., attic.

5. PETITIONS FOR LOCAL OPTION ELECTIONS, 1908-15. 2 f. b. Petitions by voters to board of commissioners to hold elections to determine whether intoxicating liquors shall be sold within any certain territory, showing dates of petition and filing, name of town or territory, and names and addresses of petitioners. Arr. chron. by dates of filing. No index. Typed. 7 x 4 x 9. N. stor. rm., attic.

#### LEGAL PUBLICATIONS

6. PROOF OF PUBLICATION, 1910-. 9 f. b. Affidavits of publishers, showing dates of affidavit and publication of notice, names of newspaper and affiant, and clipping of newspaper notice. Arr. chron. by dates of notices. No index. Hdw. 7 x 4 x 9. 5 f. b., 1910-30, N. stor. rm., attic; 4 f. b., 1931-, aud. vt.

#### LIQUOR LICENSES AND BONDS

7. LIQUOR LICENSE APPLICATIONS, 1900-1918. 2 f. b. Discontinued as county record; kept by state excise director, 1933-34, and by Alcoholic Beverage Commission of Indiana, 1935-. 1878-99 in Commissioners' Court [Documents], entry 3.

Applications for licenses to retail alcoholic liquors, with proofs of publication attached, showing dates of application

and filing, name and address of applicant, application number, term of license, bond requirements, amount of fee, location and description of place of business, and date of commissioners' approval or rejection. Also contains: Retailers' Bonds, 1916-17, entry 9. Arr. chron. by dates of applications. No index. Hdw. 7 x 4 x 9. N. stor. rm., attic.

8. RETAILERS BONDS, 1876-99. 1 vol. Discontinued as county record in 1918; kept by state excise director, 1933-34, and by Alcoholic Beverage Commission of Indiana, 1935-.

Record of bonds posted by dealers in alcoholic liquors, showing dates of bond, acceptance, approval, and recording; names and addresses of dealer and sureties; amount and conditions of bond; and location and description of place of business. Arr. chron. by dates of recording. Indexed alph. by names of dealers. Hdw. 300 pp. 18 x 10 x 2½. S. stor. rm., attic.

For original bonds, see entry 9.

9. RETAILERS' BONDS, 1876-1915. 2 f. b. Discontinued as county record in 1918; kept by state excise director, 1933-34, and by Alcoholic Beverage Commission of Indiana, 1935-. 1916-17 in Liquor License Applications, entry 7.

Original bonds posted by dealers in alcoholic liquors, showing information as in entry 8. Arr. chron. by dates of bonds. No index. Hdw. 7 x 4 x 9. N. stor. rm., attic.

#### BOND ISSUES

10. BOND REGISTER, 1900-. 2 vols. (1; 1 vol. unlabeled). Record of all bond issues, showing date, nature, number, and amount of each bond; total amount of issue; interest rate; amount and number of coupons; amount of premium; names of commissioners and purchasers; dates of maturity and redemption; number and amount of bonds redeemed and outstanding; and volume and page reference to Commissioners' Record, entry 2, and County Council Record, entry 24. Arr. chron. by dates of issue. No index. Hdw. 200 pp. 18 x 12 x 2. Aud. vt.

11. COUNTY BONDS AND COUPONS REDEEMED, 1875-. 1 carton, 4 f. b., 10 envelopes.

Redeemed bonds and coupons, showing dates of bond, maturity, redemption, and filing; name of purchaser; amounts and serial numbers of bond and coupon; and purpose of issue. Arr. chron. by dates of filing. No index. Hdw. Carton, 18 x 18 x 12; f. b., 7 x 4 x 9; envelopes, 10 x 8 x ½. 1 carton, 4 f. b., 1875-1931. N. stor. rm., attic; 10 envelopes, 1932-, aud. vt.

## BIDS, BONDS, AND CONTRACTS

12. BIDDERS' RECORD, 1925-. 1 vol. 1867-1934 in Commissioners' Record, entry 2.

Record of bids submitted for construction, repairs, improvements, supplies, and materials for county projects and institutions, showing dates of publication and opening of bids; names and addresses of all bidders and successful bidder; quantity, purpose, description, and unit price of bid; and volume and page reference to Commissioners' Record, entry 2. Arr. chron. by dates of bids. Indexed alph. by names of materials and supplies. Hdw. 225 pp. 14 x 13 x 2. Aud. vt.

13. CONTRACTORS' BIDS AND BONDS, 1899-. 8 f. b. 1878-98 in Commissioners' Court [Documents], entry 3.

Original bids, contracts, proofs of publication, and bonds posted by contractors for construction, improvement, repairs, supplies, and materials for county projects and institutions, showing dates of bid, contract, bond, approval, and filing; names of principals, sureties, and publication; and amount and conditions of bond and contract. Arr. chron. by dates of filing. No index. Hdw. and typed. 7 x 4 x 9. 7 f. b., 1899-1929, N. stor. rm., attic; 1 f. b., 1930-, aud. vt.

14. PHYSICIANS' CONTRACTS, 1876-99. 2 f. b. Discontinued. Copies of contracts with physicians for professional services to county poor, showing dates of contract, approval, and filing; name of physician; amount of annual salary; duration and conditions of contract; and volume and page reference to Commissioners' Record, entry 2. Arr. chron. by dates of contracts. No index. Hdw. 7 x 4 x 9. N. stor. rm., attic.

15. INSURANCE POLICIES, 1876-. 8 f. b.

Current and expired insurance policies on county property, showing dates of issue and expiration; names and addresses of company, agent, and insured; amount and kind of insurance; rate and amount of premium; and conditions of policy. Arr. chron. by dates of policies. No index. Hdw. and typed. 7 x 4 x 9. 7 f. b., 1876-1935, N. stor. rm., attic; 1 f. b., 1936-, aud. vt.

## CLAIMS AND ALLOWANCES

16. COMMISSIONERS' CLAIM AND ALLOWANCE RECORD, 1871-. 11 vols. (5 vols. unlabeled; 1-6). Title varies: Register of Allowances, 1871-1914, 6 vols. 1867-70 in Commissioners' Record, entry 2.

Record of claims filed and allowances made, showing dates

and amounts of claim, allowance, and appropriation; claim and warrant numbers; and names of claimant and fund. Arr. chron. by dates of allowances. No index. Hdw. 250 pp. 16 x 11 x 2. 6 vols., 1871-1914, S. stor. rm., attic; 5 vols., 1915-, aud. vt.

17. [Miscellaneous] CLAIMS, 1878-. 70 f. b.  
Original claims filed for allowance, showing date, nature, number, and amount of claim; names of claimant and fund; and warrant and appropriation numbers. Also contains: Gravel Road Claims, 1878-94, entry 18; and County Agent [Claims], 1931-, entry 20. Arr. chron. by dates of filing. No index. Hdw. 7 x 4 x 9. 20 f. b., 1878-1928, N. stor. rm., attic; 50 f. b., 1929-, aud. vt.

18. GRAVEL ROAD CLAIMS, 1895-. 52 f. b. 1878-94 in  
[Miscellaneous] Claims, entry 17.  
Original claims filed for costs of materials and labor used on free gravel roads, showing date, nature, number, and amount of claim; names of claimant, road, and road superintendent; and date of filing. Arr. chron. by dates of filing. No index. Hdw. 7 x 4 x 9. 21 f. b., 1895-1928, N. stor. rm., attic; 31 f. b., 1929-, aud. vt.

19. REGISTER OF ALLOWANCES TURNPIKE, 1893-1916. 3 vols. (1, 1, 2). Title varies: Turnpike Director's Dock-  
et, 1893-99. 1 vol.  
Register of claims filed for costs of labor and materials used in the repair and maintenance of turnpikes, showing date, number, nature, and amount of claim; names of claimant and turnpike; and amount of allowance. Arr. num. by claim nos. No index. Hdw. 480 pp. 18 x 12 x 2. S. stor. rm., attic.

20. COUNTY AGENT [Claims], 1916-30. 1 f. b. 1931- in  
[Miscellaneous] Claims, entry 17.  
Original claims for salary and expenses, showing dates of claim, allowance, and filing, nature and amount of claim, amounts of allowance and warrant, name of claimant, and claim and warrant numbers. Arr. chron. by dates of filing. No index. Typed. 7 x 4 x 9. N. stor. rm., attic.

21. [Claims, State Treasurer], 1912-. 11 f. b.  
Claims filed by state treasurer for reimbursement of expenditures for inmates of benevolent institutions and for transportation advanced to discharged prisoners, showing date, number, nature, and amount of claim; name and address of institution; and name of inmate. Also contains: [Budget Estimates], entry 26. Arr. chron. by dates of claims. No index. Hdw. and typed. 7 x 4 x 9. 4 f. b., 1912-26, N. stor. rm., attic; 7 f. b., 1927-, aud. vt.

PUBLIC IMPROVEMENTS  
(See also entries, 230-235, 394-396, 399-405)

22. ROAD RECORD, 1826-99. 2 vols. 1900- in Commissioners' Record, entry 2.

Record of all actions and proceedings on petitions filed for locating and constructing roads, showing date and nature of action, names of principals, and location and description of road. Arr. chron. by dates of action. Indexed alph. by names of principals. Hdw. 350 pp. 18 x 10 x 3. 1 vol., 1826-75, aud. vt.; 1 vol., 1876-99, S. stor. rm., attic.

23. ROAD PETITIONS, 1877-1916. 32 f. b. 1917- in Commissioners' Court [Documents], entry 3.

Original petitions for locating and constructing roads and bridges, showing date and purpose of petition; names of petitioners; kind, description, and location of proposed road or bridge; and action taken. Arr. chron. by dates of petitions. No index. Hdw. and typed. 7 x 4 x 9. N. stor. rm., attic.

## II. COUNTY COUNCIL

### LEGAL STATUS

The Morgan County Council exists under the mandatory provisions of an act of 1899, commonly referred to as the County Reform Law.<sup>1</sup> The council is composed of seven members. Each councilman is elected for a term of 4 years, and holds his office until his successor has been elected and qualified. The county is divided by the board of commissioners into four councilmanic districts; and one councilman is elected by the voters of each district. Three councilmen at large are elected by the voters of the whole county.<sup>2</sup> Each councilman receives a certificate of election from the clerk of the circuit court and is not commissioned by the governor.<sup>3</sup> Members of the first council were appointed in 1889 by the judge of the circuit court.<sup>4</sup> The county auditor, in person or by deputy, serves as clerk of the county council.<sup>5</sup>

<sup>1</sup> Acts 1899; Burns 26-501; Baldwin 5365.

<sup>2</sup> Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-502, 26-505; Baldwin 5366, 5369.

<sup>3</sup> Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

<sup>4</sup> Acts 1899; Burns 26-548.

<sup>5</sup> Acts 1899; Burns 26-509; Baldwin 5373.

At an organization meeting held on the 2d Saturday after its election, the council chooses from its members a presiding officer and a presiding officer *pro tem*, who serve for the terms of their respective offices as councilmen.<sup>6</sup>

Each member must have been an inhabitant of the county during 1 year next preceding the date of his election or appointment. A councilman at large must be a qualified voter and resident freeholder of the county; and each of the other members must be a qualified voter and resident freeholder of the district from which he was elected or appointed. No person can hold the office of councilman while holding any other county office or any state, township, or municipal office.<sup>7</sup> Each councilman must take an oath that he will support the state and federal constitutions and that he will faithfully and honestly perform his duties as councilman.<sup>8</sup>

A councilman receives a salary of \$10 per year plus \$10 for each day served at special meetings of the council.<sup>9</sup> Before 1927 there was no additional compensation for serving at special meetings.<sup>10</sup> From 1899 until 1933 the auditor was entitled to a suitable annual allowance by the county council in an amount not less than \$200 nor more than \$600 (in addition to his regular salary), for his services as clerk of the county council; but since 1933 his annual salary of \$2,160 has been compensation for his regular duties and also his duties as clerk of the county council.<sup>11</sup>

For sufficient legal grounds any councilman may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>12</sup> If any councilman is convicted of a felony the judgment of conviction must declare his office

<sup>6</sup> Acts 1899, 1931; Burns 26-507; Baldwin 5371.

<sup>7</sup> Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6. Acts 1899; Burns 26-504; Baldwin 5368. State *ex rel.* Workman v. Goldthait (1909), 172 Ind. 210, 87 N. E. 133.

<sup>8</sup> Const. 1851, art. 15, sec. 4. Acts 1899; Burns 26-506; Baldwin 5370. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>9</sup> Acts 1899, 1927; Burns 26-503; Baldwin 5367.

<sup>10</sup> Acts 1899, ch. 154, sec. 3.

<sup>11</sup> Acts 1899; Burns 26-509, 26-550; Baldwin 5373, 5221. Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. *Opinions of the Attorney General of Indiana*, 1934, p. 313; 1936, p. 130.

<sup>12</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 26-504; Baldwin 5368. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

vacant.<sup>13</sup> The county council has the power to expel any councilman for disability, ineligibility, neglect to perform the duties of his office, or violation of official duties; and no law specifically provides for a review of such expulsion.<sup>14</sup> Any vacancy in the membership of the council is filled through appointment by the remaining members of the council at a special meeting held for that purpose. A person appointed to fill such vacancy holds office until the expiration of the term in which such vacancy occurred and until his successor is elected and qualified.<sup>15</sup>

The purpose of the general assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.<sup>16</sup> Before 1899 the board of commissioners performed the duties now performed by the council.<sup>17</sup>

#### FUNCTIONS AND RECORDS

The county council makes appropriations of money to be paid out of the county treasury, makes county tax levies, fixes the county tax rates,<sup>18</sup> authorizes the borrowing of money for the county,<sup>19</sup> authorizes the county to purchase, sell, or convey real estate of the value of \$1,000 or more,<sup>20</sup> and fixes the amounts of salaries of deputy officers and other assistants of county officers.<sup>21</sup> In making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor<sup>22</sup> and presented by him to the council with his recommendations and proposed ordinances.<sup>23</sup> Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment

<sup>13</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>14</sup> Acts 1899; Burns 26-504, 26-512; Baldwin 5368, 5376.

<sup>15</sup> Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-505; Baldwin 5369.

<sup>16</sup> Acts 1899; Burns 26-529; Baldwin 5393. *Snider v. State ex rel. Leap* (1934), 206 Ind. 474, 190 N. E. 178.

<sup>17</sup> 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16-18, 21, 22.

<sup>18</sup> Acts 1899, 1931; Burns 26-507, 26-515, 26-520; Baldwin 5371, 5379, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

<sup>19</sup> 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

<sup>20</sup> Acts 1903; Burns 22-3201; Baldwin 4507. Acts 1899; Burns 26-534; Baldwin 5399.

<sup>21</sup> Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>22</sup> Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1899, 1907, 1913, 1937 Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

or the state board of tax commissioners.<sup>23</sup> In mandamus proceedings the courts can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rests on the performance of a condition, if in fact the condition has been performed.<sup>24</sup> The authorization by the council of the issuance of bonds or notes in an amount exceeding \$5,000, excepting temporary obligations, is subject to review by the state board of tax commissioners; and no bonds or notes bearing interest greater than 5 percent per annum can be issued without the approval of said board.<sup>25</sup>

The county council and the board of commissioners, acting together, approve the acceptance of lands given or devised to the county for purposes of a public forest;<sup>26</sup> hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;<sup>27</sup> determine, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;<sup>28</sup> and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.<sup>29</sup>

It is unlawful for any councilman to be interested personally in any contract with the county, or to purchase for less than par, any bond, warrant, claim, or demand against the county.<sup>30</sup>

The county council holds a regular annual meeting on the 1st Tuesday after the 1st Monday in September of each year. Special meetings may be called by the auditor or a

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<sup>23</sup> Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>24</sup> Acts 1899; Burns 26-528; Baldwin 5392. State *ex rel.* Simpson v. Meeker (1914), 182 Ind. 240, 105 N. E. 906; State *ex rel.* Test v. Steinwedel (1932), 203 Ind. 457, 180 N. E. 865; Blue v. State *ex rel.* Powell (1936), 210 Ind. 486, 1 N. E. (2d) 122.

<sup>25</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736. Citizens Bank v. Burnettsville (1932), 98 Ind. App. 92, 179 N. E. 724.

<sup>26</sup> Acts 1929; Burns 32-105; Baldwin 4879.

<sup>27</sup> Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

<sup>28</sup> Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

<sup>29</sup> Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

<sup>30</sup> Acts 1899; Burns 26-513, 26-514; Baldwin 5377, 5378.

majority of the members of the council.<sup>31</sup> The sessions are open to the public and may continue until all business is completed.<sup>32</sup> A majority of all the members constitutes a quorum to do business, and such majority must concur in the passage of ordinances.<sup>33</sup> A greater vote is required in order to expel a member (two-thirds),<sup>34</sup> adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths),<sup>35</sup> adopt appropriations at a special meeting (two-thirds),<sup>36</sup> and to levy taxes for the maintenance of county roads (unanimous).<sup>37</sup> The sheriff, in person or by deputy, attends the session of the council and executes its orders.<sup>38</sup>

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record of its proceedings.<sup>39</sup> He keeps separate accounts for each specific item of appropriation made by the council.<sup>40</sup>

24. COUNTY COUNCIL RECORD, 1899-. 1 vol.

Record of meetings of county council, showing date and place of meeting, names of members present, business discussed, and action taken. Arr. chron. by dates of meetings. No index. Typed. 400 pp. 18 x 13 x 3. Aud. vt.

25. COUNTY COUNCIL [Budget Estimates], 1900-. 4 f. b. Budget estimates compiled by county officials for basis of establishment of appropriations, showing dates of estimate and filing, names of official and office, and itemized statement of funds required. Arr. chron. by dates of estimates. No index. Hdw. and typed. 7 x 4 x 9. 2 f. b., 1900-1920, N. stor. rm., attic; 2 f. b., 1921-, aud. vt.

26. [BUDGET ESTIMATES], 1912-. In [Claims, state treasurer] entry 21.

Budget estimates submitted by Memorial Hospital trustees, showing date and amount of estimate, itemized list of income and expenses, and levy rate required. Arr. chron. by dates of estimates.

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<sup>31</sup> Acts 1899, 1931; Burns 26-507; Baldwin 5371.

<sup>32</sup> Acts 1899; Burns 26-508; Baldwin 5372.

<sup>33</sup> Acts 1899; Burns 26-511; Baldwin 5375.

<sup>34</sup> Acts 1899; Burns 26-512; Baldwin 5376.

<sup>35</sup> Acts 1899; Burns 26-520; Baldwin 5384.

<sup>36</sup> Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

<sup>37</sup> Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

<sup>38</sup> Acts 1899; Burns 26-510; Baldwin 5374.

<sup>39</sup> Acts 1899; Burns 26-509; Baldwin 5373. State *ex rel.* Van Der Veer v. Butcher (1933), 205 Ind. 117, 185 N. E. 908.

<sup>40</sup> Acts 1899; Burns 26-523; Baldwin 5387.

## III. CLERK OF THE CIRCUIT COURT

## LEGAL STATUS

The office of clerk of the circuit court was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Morgan County since its organization in 1822. The clerk of the circuit court, commonly referred to as "county clerk," is elected for a 4-year term by the voters of the county.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> No person is eligible to hold the office more than 8 years in any 12-year period.<sup>4</sup> The clerk must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>5</sup> must reside within the county after his election, must not hold any other lucrative office,<sup>6</sup> and must not practice law.<sup>7</sup> He must post bond in an amount fixed by the board of commissioners, to be approved by that board and filed with the recorder.<sup>8</sup> The clerk must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>9</sup> Under the Constitution of 1816 the clerk was elected for a 7-year term and could hold the office of recorder.<sup>10</sup>

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<sup>1</sup> Const. 1816, art. 5, sec. 8. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 3, sec. 4; ch. 14, secs. 1, 8. Acts 1817-18 (special), ch. 3, secs. 1, 3. Acts 1821-22, ch. 24, sec. 1. Rev. Laws 1824, ch. 36, secs. 1, 3. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427.

<sup>2</sup> Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const. 1851, art. 15, sec. 3.

<sup>4</sup> *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

<sup>5</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

<sup>6</sup> Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

<sup>7</sup> Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. McCracken v. State (1867), 27 Ind. 491.

<sup>8</sup> Acts 1816-17, ch. 2, sec. 4. Rev. Laws 1824, ch. 24, sec. 3. Rev. Stat. 1838, ch. 15, sec. 1; ch. 17, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-106, 49-120; Baldwin 13066, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852; Burns 42-2701; Baldwin 1427. Acts 1875; Burns 49-2703, 49-2704; Baldwin 1430, 1431.

<sup>9</sup> Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 2, sec. 4. Acts 1817-18 (special), ch. 3, sec. 3. Rev. Laws 1824, ch. 24, sec. 3. Rev. Laws 1831, ch. 15, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-104; Baldwin 13054, 13057.

<sup>10</sup> Const. 1816, art. 5, sec. 8; art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

The clerk of the circuit court receives a regular salary of \$1,840 per year.<sup>11</sup> He receives \$75 for his services rendered at each general election, primary election, or special election.<sup>12</sup> For each registration blank or transfer of registration which he fills out and executes, he receives a sum fixed by the board of commissioners, not exceeding 4 cents; and in addition thereto receives reasonable compensation, fixed by the board of commissioners, for additional services rendered by him as registration officer.<sup>13</sup> He is not permitted to retain, as compensation for himself, any fees collected by him, except to the extent expressly authorized by statute in the following cases: Five cents for each mile necessarily traveled in going from the clerk's office to the governor's office, to receive state ballots, and in returning to the clerk's office; \$5 for his duties in connection with the admission or discharge of any person at any hospital for the insane, the Fort Wayne State School, the Muscatatuck Colony, the Indiana Village for Epileptics, or the James Whitcomb Riley Hospital for Children; fees for services in connection with warrants issued by the state department of treasury for the collection of gross income taxes; fees for the issuance of fish and game licenses; fees for preparing transcripts for change of venue from his county; and all fees for change of venue to his county, except for preparation of transcripts.<sup>14</sup>

For sufficient legal grounds the clerk of the circuit court may be removed from office by the circuit court after trial by the jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>15</sup> If the clerk is convicted of a felony the judgment of conviction must declare his office vacant.<sup>16</sup>

Any vacancy in the office of the clerk of the circuit

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<sup>11</sup> Acts 1871, ch. 17, sec. 24. Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>12</sup> Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

<sup>13</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-329; Baldwin, 1935 suppl., 7327.

<sup>14</sup> Acts 1841-42 (general), ch. 119, sec. 1. Acts 1871, ch. 17, sec. 20. Acts 1933; Burns 49-1001, 49-1005, 49-1007; Baldwin 7531, 7535, 7537; Acts 1933, 1937; Burns, 1939 suppl., 49-1007; Baldwin, 1937 suppl., 7537. Acts 1927; Burns 49-1301 to 49-1305; Baldwin 7561 to 7565. Acts 1933, 1937; Burns, 1939 suppl., 64-2613 (a); Baldwin, 1937 suppl., 15993 (a). *Opinions of the Attorney General of Indiana*, 1938, p. 303; 1939, p. 258.

<sup>15</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>16</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

court is filled through appointment by the board of commissioners. At the next biennial general election, held on the 1st Tuesday after the 1st Monday in November in the even-numbered years, a clerk is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>17</sup>

The clerk may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.<sup>18</sup> The clerk may require the deputy to give bond.<sup>19</sup> The deputy must take the oath required of the clerk, may perform all the official duties of the clerk, and is subject to the same regulations and penalties.<sup>20</sup> The clerk may remove such deputy and assistants at any time, and is responsible for their official acts.<sup>21</sup>

#### FUNCTIONS AND RECORDS

The clerk of the circuit court files and keeps a record of official bonds and oaths of certain county and township officers. He approves some of these bonds and administers some of these oaths.<sup>22</sup> He approves and files the official

<sup>17</sup> Const. 1851, art. 6, sec. 9. Acts 1817-18 (general), ch. 17, secs. 1, 8. Rev. Laws 1824, ch. 10, sec. 4; ch. 36, sec. 1. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Douglass v. State *ex rel.* Wright (1869), 31 Ind. 429. *Opinions of the Attorney General of Indiana, 1936*, p. 9. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>18</sup> Acts 1871, ch. 17, sec. 25. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

<sup>19</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

<sup>20</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

<sup>21</sup> Rev. Laws 1824, ch. 10, sec. 2. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>22</sup> Acts 1816-17, ch. 2, sec. 3; ch. 11, sec. 4; ch. 13, secs. 3, 4; ch. 19, sec. 1; ch. 39, sec. 1. Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3; ch. 72, sec. 1. Acts 1817-18 (special), ch. 3, sec. 3. Acts 1818-19, ch. 2, sec. 1. Rev. Laws 1824, ch. 13, sec. 2; ch. 24, sec. 3; ch. 73, sec. 31. Rev. Laws 1831, ch. 15, sec. 7; ch. 20, sec. 23. Acts 1833-34, ch. 16, sec. 1. Rev. Stat. 1843, ch. 4, secs. 84, 86, 89; ch. 10, sec. 2. 2 Rev. Stat. 1852, Acts 1861; Burns 5-118; Baldwin 1847. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-109; Baldwin 13064. Acts 1851-52; Burns 49-123;

bonds of notaries public, and he administers and files their official oaths.<sup>23</sup> Bonds of collection agencies are filed by the clerk after being approved by the judge of the circuit court. The clerk's receipt for such bond must accompany any application to the secretary of state for a license to operate a collection agency.<sup>24</sup> Formerly he kept a general index to various bonds approved or filed by him.

The clerk issues licenses for marriages. He records these licenses, the applications therefor, and certificates of marriage; and he makes monthly reports to the county health officer concerning marriages.<sup>25</sup>

The clerk issues licenses for physicians, surgeons,<sup>26</sup> midwives,<sup>27</sup> osteopaths,<sup>28</sup> chiropractors, drugless healers,<sup>29</sup>

Baldwin 13093. Acts 1857; Burns 49-124; Baldwin 12077. Acts 1857; Burns 49-125; Baldwin 16118. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Acts 1889; Burns 49-3003; Baldwin 5417. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. Acts 1919, 1921; Burns 64-1001, 64-1101; Baldwin 15666, 15696. Acts 1915; Burns 65-103; Baldwin 16061.

<sup>23</sup> 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

<sup>24</sup> Acts 1937; Burns, 1939 suppl., 10-5001, 10-5002; Baldwin, 1937 suppl., 2468-5, 2468-6.

<sup>25</sup> Acts 1817-18 (general), ch. 34, secs. 3, 4, 6, 7. Rev. Stat. 1838, ch. 68, secs. 3, 6. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. 1 Rev. Stat. 1852, 1939; Burns, 1939 suppl., 44-201; Baldwin, 1939 suppl., 5622. 1 Rev. Stat. 1852; Burns 44-203; Baldwin 5624. Acts 1905, 1917; Burns 44-205; Baldwin 5625. Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Before March 1, 1940 (the effective date of the 1939 law) a marriage license could be issued only in "the county in which the female resides." The 1939 law provided that the license may be issued in "the county in which application for such license is made." In 1938 the supreme court held that an injunction could be granted to prevent the clerk from violating this law. *Sweigart v. State* (1938), 213 Ind. 157, 12 N. E. (2d) 134.

The 1939 law provides that each applicant for a license must present a medical certificate showing that the applicant is not infected with communicable syphilis, but this provision may be waived by the judge of the circuit court "because of emergency or other causes shown by affidavit or other proof." Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Common law marriage. *Young v. General Baking Co.* (1938), 104 Ind. App. 658, 12 N. E. (2d) 1016.

Ratification of void ceremonial marriage by living together after removal of disability of party. *Eddington v. Eddington* (1938), 213 Ind. 347, 12 N. E. (2d) 758.

<sup>26</sup> Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

<sup>27</sup> Acts 1897; Burns 63-1309; Baldwin 10709.

<sup>28</sup> Acts 1901; Burns 63-1316; Baldwin 10716.

<sup>29</sup> Acts 1927; Burns 63-1312; Baldwin 10713.

dentists,<sup>30</sup> optometrists,<sup>31</sup> hunting, trapping, fishing,<sup>32</sup> poultry dealers,<sup>33</sup> junk dealers,<sup>34</sup> and for carrying pistols.<sup>35</sup> Formerly he issued licenses for veterinarians,<sup>36</sup> brokers,<sup>37</sup> stallions,<sup>38</sup> petty money lenders,<sup>39</sup> and sale of liquor.<sup>40</sup>

The clerk registers certificates of trained nurses.<sup>41</sup> He records timber brands,<sup>42</sup> assumed business names,<sup>43</sup> trademarks and trade names used on bottles and other containers,<sup>44</sup> and certificates of patents granted by the United States Patent Office.<sup>45</sup> Formerly he kept a negro register,<sup>46</sup> a register of certificates of agents of foreign insurance

<sup>30</sup> Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935; Burns, 1939 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

<sup>31</sup> Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1939 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

<sup>32</sup> Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1939 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

No fee for fishing licenses issued to resident females. *Opinions of the Attorney General of Indiana, 1939*, p. 160.

<sup>33</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

<sup>34</sup> Acts 1905; Burns 42-702; Baldwin 10462.

<sup>35</sup> The law authorizes the judge of the circuit court to issue these licenses and does not mention the clerk. In issuing a license the clerk acts for the judge after the judge has approved a written application therefor. One copy of the license must be mailed to the superintendent of state police and another copy must be preserved for 6 years "by the authority issuing said license." The term of the license cannot exceed 1 year. Acts 1935, 1937; Burns, 1939 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

Former laws (repealed in 1935) authorized the clerk to issue such licenses. Acts 1925, ch. 207, sec. 7. Acts 1929, ch. 98, sec. 1. Acts 1935, ch. 63, sec. 21.

<sup>36</sup> Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

<sup>37</sup> Acts 1840-41 (general), ch. 5, sec. 18.

<sup>38</sup> Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

<sup>39</sup> Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6).

<sup>40</sup> Acts 1917, ch. 4, secs. 6, 12.

<sup>41</sup> Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

<sup>42</sup> Acts 1901; Burns 51-338; Baldwin 13265.

<sup>43</sup> Acts 1909; Burns 50-201, 50-202; Baldwin 13210, 13211.

<sup>44</sup> Acts 1897, ch. 192, sec. 1. Acts 1917, 1931; Burns 66-101; Baldwin 16179.

<sup>45</sup> Acts 1869 (Spec. Sess.), 1899; Burns 51-401; Baldwin 2727.

<sup>46</sup> 1 Rev. Stat. 1852, ch. 74, sec. 3 (repealed by Acts 1867, ch. 128, sec. 1).

companies,<sup>47</sup> a roll of the attorneys of the county,<sup>48</sup> and lists of shareholders of all banks doing business in the county;<sup>49</sup> and he recorded limited partnerships.<sup>50</sup>

The clerk keeps a register of estrays and articles adrift;<sup>51</sup> records appointments of railroad agents for service of process;<sup>52</sup> records the commissions, oaths, and terminations of authority of railroad policemen;<sup>53</sup> administers oaths;<sup>54</sup> takes acknowledgments of written instruments;<sup>55</sup> and distributes session laws enacted by the general assembly.<sup>56</sup> Formerly the clerk recorded prison bounds;<sup>57</sup> filed public contracts for support of paupers;<sup>58</sup> filed enumerations of soldiers and sailors;<sup>59</sup> kept standards of weights and measures;<sup>60</sup> kept plats showing changes in routes of roads and canals;<sup>61</sup> and performed the duties of the office of school commissioner if there was no school commissioner.<sup>62</sup>

The clerk files petitions and remonstrances concerning the establishment of a county public library; and he notifies the judge of the circuit court, the county superintendent of

<sup>47</sup> Acts 1865 (Spec. Sess.), ch. 15, sec. 1. Acts 1877, ch. 43, sec. 1. Acts 1899, ch. 245, sec. 1. Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

<sup>48</sup> Rev. Stat. 1843, ch. 38, sec. 93.

<sup>49</sup> 1 Rev. Stat. 1852, ch. 10, sec. 30.

<sup>50</sup> Rev. Stat. 1838, ch. 78, secs. 5-7.

<sup>51</sup> Acts 1807, ch. 20, secs. 1-3. Acts 1817-18 (general), ch. 68, secs. 2, 3. Rev. Laws 1824, ch. 39, sec. 2. 1 Rev. Stat. 1852; Burns 51-306, 51-315; Baldwin 13233, 13243.

<sup>52</sup> Acts 1877 (Spec. Sess.); Burns 55-3301 to 55-3303; Baldwin 14329 to 14331.

<sup>53</sup> Acts 1927; Burns 55-3402, 55-3408; Baldwin 14648, 14654.

<sup>54</sup> Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3. Acts 1818-19, ch. 17, sec. 1. Rev. Laws 1824, ch. 10, sec. 2; ch. 73, sec. 31. 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1435.

<sup>55</sup> Acts 1817-18 (general), ch. 28, sec. 12. Rev. Laws 1824, ch. 82, sec. 12. Rev. Laws 1831, ch. 41, sec. 10. 1 Rev. Stat. 1852, Acts 1859; Burns 55-123; Baldwin 14674.

<sup>56</sup> Acts 1933, 1935; Burns, 1939 suppl., 49-1612, 49-1612a, 49-1614; Baldwin, 1935 suppl., 14956, 14956-1, 14958. Acts 1897; Burns 49-1613; Baldwin 14957.

<sup>57</sup> Acts 1817-18 (general), ch. 32, sec. 1. Rev. Laws 1824, ch. 77, sec. 1. Rev. Laws 1831, ch. 75, sec. 1.

<sup>58</sup> Rev. Laws 1824, ch. 72, sec. 3. Rev. Laws 1831, ch. 69, sec. 2.

<sup>59</sup> Acts 1885 (Spec. Sess.), ch. 97, secs. 1, 3 (both repealed by Acts 1895, ch. 100, sec. 1). Acts 1913, ch. 46, secs. 1, 2 (both repealed by Acts 1923, ch. 4, sec. 1).

<sup>60</sup> Acts 1817-18 (general), ch. 67, secs. 1, 2. Rev. Laws 1824, ch. 116. Rev. Laws 1831, ch. 110.

<sup>61</sup> Rev. Stat. 1838, ch. 17, sec. 56.

<sup>62</sup> Acts 1836-37 (general), ch. 21, sec. 1.

schools, and the board of commissioners of the filing of such petition and any tax levy made for such library.<sup>63</sup>

All funds received by the clerk must be deposited in a depository designated by the board of finance, and may be withdrawn by checks signed by the clerk or his authorized deputy.<sup>64</sup> He reports to the county auditor and treasurer all fees and fines collected by him.<sup>65</sup> All moneys remaining in the office of the clerk for 10 years without being demanded by the parties entitled thereto are paid to the attorney general.<sup>66</sup>

The clerk keeps the official records of the circuit court,<sup>67</sup> a cashbook,<sup>68</sup> a daily balance record,<sup>69</sup> and a register of fees received by him;<sup>70</sup> and must preserve in his office all records and writings appertaining to his official duties.<sup>71</sup> On request and payment of a fee therefor, the clerk furnishes certified copies of records and papers on file in his office.<sup>72</sup>

The state board of accounts (created in 1909) has prescribed forms for the following books to be used by the clerk: Cashbook of receipts and disbursements; daily balance record; register of fees and funds held in trust; and record of poultry dealers' licenses and applications therefor. Forms of printed blanks have also been prescribed.<sup>73</sup>

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<sup>63</sup> Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510; Baldwin, 1939 suppl., 10321.

<sup>64</sup> Acts 1937; Burns, 1939 suppl., 61-673, 61-674; Baldwin, 1937 suppl., 1438-1, 1438-2.

<sup>65</sup> Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1828-29, ch. 24, secs. 1, 2. Rev. Laws 1831, ch. 15, sec. 15. Acts 1841-42 (general), ch. 45, sec. 3. Rev. Stat. 1843, ch. 13, sec. 80; ch. 38, sec. 64. Acts 1871, ch. 17, secs. 20, 27. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

<sup>66</sup> Acts 1933; Burns 49-2717, 49-2718; Baldwin 15177, 15178.

<sup>67</sup> 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>68</sup> Acts 1871, ch. 17, sec. 19. Acts 1879 (Spec. Sess.); Burns 49-2722; Baldwin 1442.

<sup>69</sup> Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

<sup>70</sup> Acts 1871, ch. 17, sec. 19. Acts 1909, ch. 10, sec. 1. Acts 1927; Burns 49-1301; Baldwin 7561. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443.

Probate fee book. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

<sup>71</sup> Acts 1817-18 (general), ch. 13, sec. 2; ch. 66, sec. 4. Rev. Laws 1824, ch. 10, sec. 1. Acts 1829-30, ch. 10, sec. 1. Rev. Laws 1831, ch. 15, sec. 1. Rev. Stat. 1843, ch. 38, sec. 50. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>72</sup> Acts 1817-18 (general), ch. 13, sec. 18. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634.

2 Rev. Stat. 1852; Burns 49-2707; Baldwin 1434.

<sup>73</sup> Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

Other functions, duties, and records of the clerk are discussed in the essays entitled "Board of Primary Election Commissioners," "Circuit Court," "County Board of Canvassers," "County Board of Election Commissioners," "County School Fund Board," and "Registration Officer." Former functions, duties, and records of the clerk which were transferred to the auditor in 1841 are discussed in the essay entitled "Auditor."

OFFICIAL BONDS

(See also entries 311-314)

27. [OFFICIAL BONDS], 1876-. In Replevin & Possession, Receivers, Trustees, Costs and Appeal and Official Bonds, entry 194.

Original bonds filed in clerk's office by county and township officials, showing dates of bond, filing, and approval; names of official and sureties; term of office; and amount and conditions of bond.

28. RECORD OF OFFICIAL BONDS, 1857-1933. 4 vols. (1 vol. unlabeled; 1-3). Title varies: Official Bond Record, 1857-74. 1 vol. 1934- in Record of Receiver's, Trustee's and Official Bonds, entry 127.

Record of bonds posted by county and township officials, showing dates of bond, approval, and filing; names of official, office, and sureties; term of office; and conditions of bond. Also contains: Record of Notaries' Bonds, 1857-1917, entry 29. Arr. chron. by dates of filing. Indexed alph. by names of officials. Hdw. 600 pp. 18 x 13 x 3. S. stor. rm., attic.

29. RECORD OF NOTARIES' BONDS, 1918-. 2 vols. (1, 2). 1857-1917 in Record of Official Bonds, entry 28.

Record of bonds posted by notaries public, showing dates of bond and filing, names of notary and sureties, and amount and conditions of bond. Arr. chron. by dates of filing. Indexed alph. by names of notaries. Hdw. 425 pp. 18 x 12 x 2½. 1 vol., 1918-31, S. stor. rm., attic; 1 vol., 1932-, clk. off.

30. NOTARY BONDS, 1913-36. 3 f. b. 1876-1912, 1937- in Replevin & Possession, Receivers, Trustees, Costs and Appeal and Official Bonds, entry 194.

Original bonds posted by notaries public, showing dates of bond and filing, names of notary and sureties, and amount and conditions of bond. Arr. chron. by dates of filing. No index. Hdw. 7 x 4 x 9. 2 f. b., 1913-34, S. stor. rm., attic; 1 f. b., 1935-36, clk. vt.

31. OFFICIAL BOND REGISTER, 1844-1925. 3 vols. (1 vol. unlabeled; B, C). Title varies: Official Bonds, 1844-74, 1 vol. Discontinued.

Register of bonded county and township officials, notaries public, receivers in receivership causes, and trustees in bankruptcy causes, showing names of official, receiver, and trustee; dates appointed, elected or commissioned, and qualified; amount of bond; and names of sureties. Arr. chron. by dates of appointment, election, or commission. Indexed alph. by names of officials; for separate index, 1875-95, see entry 32. Hdw. 300 pp. 18 x 11 x 1½. S. stor. rm., attic.

32. OFFICIAL BOND INDEX RECORD, 1875-95. 1 vol. (1).

Index to Official Bond Register, entry 31, showing date and amount of bond, names of sureties, and volume and page reference to recording. Arr. alph. by names of sureties. Hdw. 18 x 12 x 3. S. stor. rm., attic.

#### LICENSES AND CERTIFICATES

##### MARRIAGE (see also entry 352)

33. MARRIAGE RECORD, June 12, 1905-. 16 vols. (7-22). Record of marriage applications, affidavits, licenses, and returns, showing dates of application, license, marriage, and return; names, ages, color, date and place of birth, and occupations of bride and groom; previous marital status; name of person officiating; names, ages, and occupation of parents of bride and groom; and names of witnesses. This is a combination of two records formerly kept separately: Marriage Record, entry 34; and Record of Marriage Affidavits, June 27, 1905-, entry 36. Arr. chron. by dates of licenses. Indexed alph. by names of brides and grooms. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

34. MARRIAGE RECORD, 1822-June 11, 1905. 11 vols. (A-E, 1-6). June 12, 1905- in Marriage Record, entry 33.

Record of marriage licenses issued and marriage certificates returned, showing date of license, marriage, and return; and names and addresses of bride, groom, and person officiating. Arr. chron. by dates of licenses. Indexed alph. by names of brides and grooms; for separate index, 1822-96, see entry 35. Hdw. 600 pp. 18 x 13 x 3. Clk. vt.

35. GENERAL INDEX TO MARRIAGE RECORD, 1822-96. 1 vol. (1).

Index to Marriage Record, entry 34, showing date of issuance

of license, names of bride and groom, and volume and page reference to recording. Arr. alph. by names of brides and grooms. Hdw. 600 pp. 18 x 12 x 3. Clk. vt.

36. RECORD OF MARRIAGE AFFIDAVITS, 1881-June 26, 1905. 4 vols. (1-4). June 27, 1905- in Marriage Record, entry 33.

Record of affidavits of witnesses attesting to facts as stated in applications for marriage licenses, showing date of affidavit; and names of bride, groom, and affiants. Arr. chron. by dates of affidavits. Indexed alph. by names of brides. Hdw. 517 pp. 15 x 10 x 2. Clk. off.

37. MARRIAGE RETURNS, 1876-. 21 f. b.

Original certificates returned to clerk of circuit court by persons performing marriages, showing dates of certificate, marriage, and return; names and addresses of bride and groom; and name of officiating officer. Arr. chron. by dates of returns. No index. Hdw. 7 x 4 x 9. 20 f. b., 1876-1937, S. stor. rm., attic; 1 f. b., 1938-, clk. vt.

#### PROFESSIONAL

38. PHYSICIAN'S LICENSE RECORD, 1881-. 4 vols. (1-4).

Original certificates issued by state board of medical registration and examination and record of licenses issued by clerk to practice medicine, surgery, and obstetrics in state, showing dates of certificate, diploma, license, and recording; name, date, and place of birth of physician; name of college attended; and nature and number of certificate. Arr. chron. by dates of recording. Indexed alph. by names of physicians. Hdw. 265 pp. 16 x 11 x 3. 3 vols., 1881-Jan. 10, 1930, S. stor. rm., attic; 1 vol., Jan. 11, 1930-, clk. vt.

39. RECORD DENTIST'S CERTIFICATE AND LICENSE, 1900-. 1 vol. Original certificates issued by state board of dental examiners and record of licenses issued by clerk to dentists to practice in county, showing dates and numbers of certificate and license; name, age, birthplace, and address of dentist; and name of college attended. Arr. chron. by dates of certificates. Indexed alph. by names of dentists. Hdw. 120 pp. 16 x 10 x 1. Clk. vt.

40. OPTOMETRY LICENSE RECORD, 1907-. 1 vol.

Original certificates issued by state board of registration and examination in optometry and record of licenses issued by clerk to practice in county, showing dates and numbers of certificate and license, name and address of optometrist, and name of college attended. Arr. chron. by dates of certificates. Indexed alph. by names of optometrists. Hdw. 125 pp. 14 x 8 x 1. Clk. vt.

## 41. REGISTER OF TRAINED NURSES, 1905-. 2 vols.

Original certificates issued by state board of registration and examination of nurses and record of licenses issued by clerk to practice in county, showing dates of certificate, registration, and license; name and address of nurse; certificate number; and statement of qualifications. Arr. chron. by dates of registrations. No index. Hdw. 100 pp. 9 x 8 x 1. Clk. vt.

## 42. VETERINARY RECORD, 1901-7. 1 vol.

Register of applications and licenses issued to practice veterinary medicine and surgery upon presentation of diploma from veterinary college or freeholder's affidavit certifying 5 years former practice, showing date of diploma or affidavit, dates and numbers of application and license, and names of veterinarian and college attended or freeholder. Arr. chron. by dates of applications. Indexed alph. by names of veterinarians. Hdw. 180 pp. 16 x 11 x 1. S. stor. rm., attic.

## COMMERCIAL

43. RECORD OF POULTRY DEALER'S LICENSE, 1917-. 2 vols. Register of applications and licenses issued to purchase poultry in state, showing dates of application and license, and name and business address of dealer. Arr. chron. by dates of applications. Indexed alph. by names of dealers. Hdw. 250 pp. 14 x 9 x 1½. Clk. vt.

44. JUNK DEALER'S APPLICATION AND LICENSE, 1920-. 2 vols. Record of applications and licenses issued to purchase junk in county, showing dates of application and license, and name and business address of dealer. Arr. chron. by dates of applications. Indexed alph. by names of dealers. Hdw. 172 pp. 14 x 8 x 1. 1 vol., Mar. 1, 1920-May 7, 1920, S. stor. rm., attic; 1 vol., May 8, 1920-, clk. off.

45. PETTY MONEY LENDER'S LICENSE, May 3, 1913-Nov. 20, 1916. 1 vol. Discontinued as county record; subsequent licenses issued by state auditor, 1917-32, and issued by state department of financial institutions, 1933-.

Copies of licenses issued to petty money lenders, shewing date and number of license, name and business address of licensee, and names of sureties. Arr. chron. by dates of licenses. Indexed alph. by names of licensees. Hdw. 415 pp. 17 x 12 x 2½. S. stor. rm., attic.

## 46. STOCK AND SIRE LICENSE, 1895-1912. 1 f. b.

Applications and statements of owners for stock sire licenses, showing dates of application, statement, license, and filing; name and address of owner; name, description, and pedigree of sire; registry number; and amount of fees charged for sire service. Arr. chron. by dates of applications. No index. Hdw. 7 x 4 x 9. S. stor. rm., attic.

## 47. PARTNERSHIP, 1909-. 1 vol.

Record of certificates of firms and partnerships, showing dates of certificate and filing, name of firm or partnership, names and addresses of members, and nature and location of business. Also contains: Certificates of Partnership, 1909-10, 1929-, entry 48. Arr. chron. by dates of filing. Indexed alph. by names of firms and partnerships. Hdw. and typed. 200 pp. 16 x 11 x 2. Clk. off.

## 48. CERTIFICATES OF PARTNERSHIP, 1911-28. 1 f. b. 1909-10, 1929- in Partnership, entry 47.

Original certificates of firms or partnerships engaged in business under names other than their own, showing dates of certificate and filing, names and addresses of firm or partnership and members, and nature of business. Arr. chron. by dates of filing. No index. Hdw. and typed. 7 x 4 x 9. S. stor. rm., attic.

## 49. REGISTER OF INSURANCE CERTIFICATES, 1881-1919. 2 vols.

Discontinued as county record; licenses issued by state department of insurance are valid in all counties, 1920-.

Register of certificates issued by auditor of state to agents of insurance companies authorizing them to transact business in Morgan County, showing dates of certificate and filing, and names and addresses of company and agent. Arr. chron. by dates of certificates. Indexed alph. by names of agents. Hdw. 200 pp. 18 x 10 x 1½. S. stor. rm., attic.

## FIREARMS

## 50. [APPLICATIONS FOR] PERMIT TO CARRY CONCEALED REVOLVERS, 1925-. 2 f. b.

Applications for permits to carry firearms, showing dates of application and filing; name, age, address, and physical description of applicant; description of firearm; and reason for application. Arr. chron. by dates of filing. No index. Hdw. 7 x 4 x 9. 1 f. b., 1925-35, S. stor. rm., attic; 1 f. b., 1936-, clk. off.

51. [PERMITS TO CARRY FIREARMS], 1925-. 2 vols.  
Duplicates of permits issued by clerk to carry firearms, showing date and number of permit; name, address, date, birthplace, and physical description of recipient; description of firearm; and reason for issuance. Arr. num. by permit nos. No index. Hdw. 85 pp. 8 x 14 x 1/2. Clk. off.

## HUNTING, FISHING, AND TRAPPING

52. [HUNTING, FISHING, AND TRAPPING LICENSES], 1913-. 240 vols.

Stubs of hunting, fishing, and trapping licenses issued, showing date of issue; amount of fee; number and nature of license; and name, address, age, and physical description of licensee. Arr. num. by license nos. No index. Hdw. 100 pp. 3 x 6 x 1 1/2. 120 vols., 1913-22, S. stor. rm., attic; 120 vols., 1923-, clk. vt.

## MILITARY

(See also entry 98)

53. ENROLLMENT OF SOLDIERS, THEIR WIDOWS AND ORPHANS, 1886, 1890. 2 vols.

Record of enrollment of soldiers and sailors of the wars of 1812 and 1861 and widows and orphans of deceased soldiers and sailors, showing name, address, color, rank, and service record; name of deceased soldier's or sailor's widow; number of sons and daughters; total number of children under 16 years of age; manner of death of soldier or sailor; and financial status of soldier, sailor, or widow. Arr. by townships, thereunder alph. by names of soldiers and sailors. No index. Hdw. 350 pp. 18 x 12 x 3. S. stor. rm., attic.

For other military records, see entries 54, 98.

54. ENROLLMENT OF SOLDIERS, 1886. 1 f. b.

Original enrollments of soldiers, sailors, or widows and orphans of deceased soldiers and sailors, showing information as in entry 53. Arr. chron. by dates of enrollment. No index. 7 x 4 x 9. S. stor. rm., attic.

For other military records, see entries 53, 98.

## MISCELLANEOUS

55. ESTRAY, 1876-1913. 1 f. b.

Notices of finding and taking up estrayed animals, showing dates of finding, posting notice, and recording; name and

address of finder; names of appraisers; description, appraised valuation, and cost of keeping animal; date and amount of sale; and sheriff's return. Arr. chron. by dates of notices. No index. Hdw. 7 x 4 x 9. S. stor. rm., attic.

56. RESTORE RECORD, 1876-81. 1 vol.

Record of affidavits and statements of appointed commissioner and employees that contents of records damaged by fire have been copied exactly as originals, showing dates of affidavit and statement, names of supervising commissioner and employees, and name and nature of records copied. Arr. chron. by dates of affidavits and statements. No index. Hdw. 450 pp. 18 x 14 x 3. Clk. vt.

#### RECEIPTS AND DISBURSEMENTS

57. DAILY BALANCE AND CASH BOOK, 1915-. 3 vols. (1, 1-7).

Record of daily balance and cash statement, showing date of balance; amounts of balance at beginning and closing of day, receipts, and disbursements; totals; names of fund and depository; and itemized list of cash in depositories and office. Arr. chron. by dates of balances. No index. Hdw. 250 pp. 12 x 10 x 1½. 6 vols., 1915-38, S. stor. rm., attic; 2 vols., 1934-, clk. vt.

58. CASH BOOK OF RECEIPTS AND DISBURSEMENTS, Nov. 8, 1872-Sept. 1911, Mar. 1924-. 8 vols. (3 vols. unlabeled; 3, 4, 4-6). Title varies: Clerk's Cash Book, Nov. 8, 1872-Sept. 1911, 5 vols.

Daily record of receipts and disbursements, showing date, nature, and amounts of receipts and disbursements; names of payer, payee, and fund; receipt, check, and cause numbers; and totals. This is a combination of two records intercurrently kept separately: Cash Book of Receipts, entry 59; and Cash Book of Disbursements, entry 60. Arr. chron. by dates of receipts and disbursements. Nov. 8, 1872-Sept. 1911, indexed alph. by names of payers and payee; Mar. 1924-, no index. Hdw. 600 pp. 18 x 17 x 3. 5 vols., Nov. 8, 1872-Sept. 1911, S. stor. rm., attic; 3 vols., Mar. 1924-, clk. vt.

59. CASH BOOK OF RECEIPTS, Oct. 1911-Feb. 1924. 3 vols. (1-3). Nov. 8, 1872-Sept. 1911, Mar. 1924- in Cash Book of Receipts and Disbursements, entry 58.

Daily record of receipts, showing date, nature, number, and amount of receipt; cause number; names of payer and fund; and total. Arr. chron. by dates of receipts. No index. Hdw. 220 pp. 18 x 12 x 2. S. stor. rm., attic.

60. CASH BOOK OF DISBURSEMENTS, Oct. 1911-Feb. 1924. 2 vols. (1, 2). Nov. 8, 1872-Sept. 1911, Mar. 1924-in Cash Book of Receipts and Disbursements, entry 58. Daily record of disbursements, showing date, nature, and amount of disbursement; names of payee, fund, and depository; check number; and total. Arr. chron. by dates of disbursements. No index. Hdw. 220 pp. 18 x 12 x 2. S. stor. rm., attic.
61. REGISTER OF FEES AND FUNDS HELD IN TRUST, Dec. 27, 1876-Dec. 16, 1878, Nov. 17, 1890-Jan. 10, 1894, Nov. 17, 1894-May 17, 1900, July 8, 1905-. 12 vols. (1, 2 vols. unlabeled; 2, 1-8). Title varies: Register of Witness and Other Fees, Dec. 27, 1876-Dec. 16, 1878, Nov. 17, 1890-Jan. 10, 1894, Nov. 17, 1894-May 17, 1900, July 8, 1905-Sept. 1906, 4 vols. Record of receipts and disbursements of fees and funds held in trust, showing date, nature, and amount of receipt or disbursement; cause number; and names of plaintiff, defendant, payer, and payee. Arr. alph. by names of payers. Indexed alph. by names of payees. Hdw. 290 pp. 18 x 12 x 3. 11 vols., Dec. 27, 1876-Dec. 16, 1878, Nov. 17, 1890-Jan. 10, 1894, Nov. 17, 1894-May 17, 1900, July 8, 1905-1934, S. stor. rm., attic; 1 vol., 1935-, clk. off.
62. CANCELLED CHECKS, 1927-. 3 cartons, 9 f. b. Original checks issued by clerk and paid by depositories, showing date, number, nature, and amount of check; names of depository and payee; and date of payment. Arr. num. by check nos. No index. Hdw. 1 carton, 4 x 6 x 8; 2 cartons, 3 x 12 x 24; f. b., 7 x 4 x 9. 1 carton, 9 f. b., 1927-34, N. stor. rm., attic; 2 cartons, 1935-, clk. off.
63. REGISTER OF CLERK'S COSTS, 1895-96. 1 vol. Register of clerk's fees collected in circuit court causes and paid to treasurer, showing dates and amounts of collections and payments; names of plaintiff, defendant, and payer; number and nature of cause; and quietus number. Arr. chron. by dates of collections. No index. Hdw. 294 pp. 18 x 10 x 2. S. stor. rm., attic.
64. RECORD OF FINES AND FORFEITURES, 1910-13. 1 vol. Record of fines and forfeitures collected, showing date, nature, and amount of collections; name of payer; date of payment to treasurer; and volume and page reference to State Fee Book, entry 156. Arr. chron. by dates of collections. Indexed alph. by names of payers. Hdw. 321 pp. 18 x 11 x 2½. S. stor. rm., attic.

For other fines and forfeiture records, see entry 261.

## IV. RECORDER

## LEGAL STATUS

The office of recorder was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Morgan County since its organization in 1822. The recorder is elected for a 4-year term by the voters of the county.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> No person is eligible to the office for more than 8 years in any 12-year period.<sup>4</sup> The recorder must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>5</sup> must reside within the county after his election, must not hold any other lucrative office,<sup>6</sup> and must not practice law.<sup>7</sup> He must post bond in the amount of \$4,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.<sup>8</sup> The recorder must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>9</sup> Under the Constitution of 1816 the recorder was elected for a 7-year term and could hold the office of clerk of the circuit court.<sup>10</sup>

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<sup>1</sup> Const. 1816, art. 11, sec. 10. Const. 1851, art. 6; sec. 2. Acts 1816-17, ch. 19, sec. 1. Acts 1821-22, ch. 24, sec. 1. Rev. Stat. 1838, ch. 85, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 8; ch. 5, sec. 1; ch. 8, sec. 1. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

<sup>2</sup> Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 12095.

<sup>3</sup> Const. 1851, art. 15, sec. 3.

<sup>4</sup> *Ibid.*, art. 2, sec. 11; art. 6, sec. 2. *Carson v. McPhetridge* (1860), 15 Ind. 327.

<sup>5</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

<sup>6</sup> Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

<sup>7</sup> Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

<sup>8</sup> Rev. Laws 1831, ch. 77, secs. 2, 3. Rev. Stat. 1838, ch. 85, secs. 2, 3. Rev. Stat. 1843, ch. 4, secs. 86, 90; ch. 8, secs. 2, 3. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469. *State ex rel. Lowry v. Davis* (1884), 96 Ind. 539; *State ex rel. Lowry v. Davis* (1889), 117 Ind. 307, 20 N. E. 159.

<sup>9</sup> Const. 1816, art. 11, sec. 6. Const. 1851, art. 15, sec. 4. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81-84, 92; ch. 8, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>10</sup> Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

The recorder receives a regular salary of \$1,200 per year.<sup>11</sup> He is permitted to retain as compensation for himself, in addition to his regular salary, 20 percent of the fees collected by him, provided the total amount of fees so retained be not more than \$4,800.<sup>12</sup>

For sufficient legal grounds the recorder may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>13</sup> If the recorder is convicted of a felony the judgment of conviction must declare his office vacant.<sup>14</sup>

Any vacancy in the office of recorder is filled through appointment by the board of commissioners. At the next biennial general election, held on the 1st Tuesday after the 1st Monday in November in the even-numbered years, a recorder is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take an oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>15</sup>

The recorder may appoint a deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.<sup>16</sup> The recorder may require the deputy to give bond.<sup>17</sup> The deputy must take the oath required of the recorder, may perform all of the

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<sup>11</sup> Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>12</sup> Acts 1933; Burns 49-1001, 49-1005, 49-1009; Baldwin 7531, 7535, 7539. Acts 1933, 1937; Burns, 1939 suppl., 49-1009; Baldwin, 1937 suppl., 7539. Shilling v. State *ex rel.* Board of County Comrs. (1901), 158 Ind. 185, 62 N. E. 49.

<sup>13</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>14</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>15</sup> Const. 1851, art. 6, sec. 9. Rev. Laws 1824, ch. 36, sec. 1. Rev. Stat. 1838, ch. 85, sec. 14. Rev. Stat. 1843, ch. 4, sec. 155; ch. 8, sec. 16. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Hedley v. Board of County Comrs. (1835), 4 Blackf. 131; Douglass v. State *ex rel.* Wright (1869), 31 Ind. 429; State *ex rel.* Ault v. Long (1883), 91 Ind. 351. *Opinions of the Attorney General of Indiana, 1936*, p. 9. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>16</sup> Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

<sup>17</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

official duties of the recorder, and is subject to the same regulations and penalties.<sup>18</sup> The recorder may remove such deputy and assistants at any time, and is responsible for their official acts.<sup>19</sup>

#### FUNCTIONS AND RECORDS

Laws require the recorder to record the following documents: Deeds;<sup>20</sup> land patents issued by the United States;<sup>21</sup> probated wills;<sup>22</sup> decrees quieting title to lands;<sup>23</sup> partitions of real estate under judicial proceedings;<sup>24</sup> mortgages; releases and assignments of mortgages;<sup>25</sup> conditional sales

<sup>18</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

<sup>19</sup> Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>20</sup> Acts 1807, ch. 18, secs. 1, 8, 9. Acts 1817-18 (general), ch. 28, secs. 1, 10. Acts 1819-20, ch. 65, sec. 2. Rev. Laws 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Acts 1836-37 (general), ch. 9, secs. 9-16. Rev. Stat. 1838, ch. 44, sec. 7; ch. 85, secs. 1, 4. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 24, 25, 48. 1 Rev. Stat. 1852; Burns 49-3210, 56-118, 56-131; Baldwin 5475, 14664, 14665. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Lowry v. Smith (1884), 97 Ind. 466.

Cemetery records. Rev. Stat. 1843, ch. 25, secs. 62-65. Acts 1925; Burns 21-223; Baldwin 4648. 1 Rev. Stat. 1852; Burns 25-1521, 25-1522; Baldwin 10600, 10602.

Wabash and Erie Canal deeds. Acts 1881 (Spec. Sess.); Burns 2-1626; Baldwin 267.

Deeds of commissioners appointed by court to make conveyance. Acts 1881 (Spec. Sess.); Burns 3-1008; Baldwin 894.

Tax deeds (1843 to date) and tax certificates (1843 to 1881). Rev. Stat. 1843, ch. 12, sec. 159. 1 Rev. Stat. 1852, ch. 6, sec. 197. Acts 1881 (Spec. Sess.), ch. 96, secs. 195, 211. Acts 1919, ch. 59, secs. 263, 284.

Sheriff's deeds. Acts 1881 (Spec. Sess.); Burns 2-4006, 2-4101, 2-4102; Baldwin 629, 619, 620.

Deeds of school lands and deeds connected with school fund loans. Rev. Stat. 1838, ch. 94 (12), sec. 7. Rev. Stat. 1843, ch. 13, secs. 44, 49. Acts 1899; Burns 28-255; Baldwin 6607.

<sup>21</sup> "May be recorded as other deeds and conveyances." Acts 1881; Burns 2-1632; Baldwin 271.

<sup>22</sup> Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the deed record. Acts 1933; Burns 7-713; Baldwin 3414.

<sup>23</sup> Acts 1911; Burns 3-1409; Baldwin 968.

The 1911 law requires the recording in a substantially bound book to be known as the "Quiet Title Record," and requires an index for that record. *Ibid.*

<sup>24</sup> Acts 1859, ch. 103. Acts 1907, ch. 80. Acts 1919; Burns 64-518; Baldwin 15555.

<sup>25</sup> Acts 1807, ch. 18, secs. 1, 4, 8, 9. Acts 1817-18 (general), ch. 28, sec. 1. Acts 1825-26, ch. 42, sec. 17. Rev. Laws 1831, ch. 41, sec. 7; ch. 77, sec. 1. Rev. Stat. 1838, ch. 44, secs. 7,

contracts;<sup>26</sup> federal tax lien notices and releases thereof;<sup>27</sup> statutory liens of materialmen, laborers,<sup>28</sup> transfermen,<sup>29</sup> and owners of stallions;<sup>30</sup> contracts waiving liens of materialmen, laborers, and building contractors;<sup>31</sup> releases of vendors' liens;<sup>32</sup> old-age assistance awards;<sup>33</sup> leases of

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12; ch. 85, secs. 1, 4, 8, 9. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 26, 27, 48; ch. 29, secs. 52, 63, 69-71. Acts 1909, 1917, 1923; Burns 2-617; Baldwin 61-2 (repealed by Acts 1937, ch. 97, sec. 4). Acts 1937; Burns, 1939 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1905; Burns 49-3202, 49-3204; Baldwin 5476, 5473. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. 1 Rev. Stat. 1852; Burns 56-122; Baldwin 14673. 2 Rev. Stat. 1852; Burns 56-705, 56-708; Baldwin 989, 992. Acts 1901; Burns 56-709, 56-710; Baldwin 993, 994. Acts 1925; Burns 56-712, 56-713; Baldwin 10575, 10576. 2 Rev. Stat. 1852, Acts 1877; Burns 56-715; Baldwin 996. Acts 1877; Burns 56-716; Baldwin 998. Acts 1899; Burns 56-717; Baldwin 997. Anderson Bldg. & L. Sav. Assn. v. Thompson (1881), 87 Ind. 278; Mechanics' Bldg. Assn. v. Whitacre (1884), 92 Ind. 547; Chandler v. Scott (1891), 127 Ind. 226, 26 N. E. 797; State *ex rel.* McCoy v. Krost (1894), 140 Ind. 41, 39 N. E. 46.

Chattel mortgages before 1935 (old system). Rev. Stat. 1838, ch. 85 (first act), sec. 1; ch. 85 (second act), sec. 1. 1 Rev. Stat. 1852, Acts 1897; Burns 33-301, 33-302; Baldwin 8373, 8374 (first section repealed by Acts 1935, ch. 147, sec. 20).

Chattel mortgages and chattel mortgage minute book since 1935. Acts 1935; Burns, 1939 suppl., 51-504 to 51-517; Baldwin, 1935 suppl., 13227-4 to 13227-17. Voigt v. Morgenthaler Linotype Co. (1938), 213 Ind. 325, 12 N. E. (2d) 498; Voigt v. Ludlow Typograph Co. (1938), 213 Ind. 329, 12 N. E. (2d) 499.

School fund loans. Acts 1836-37 (general), ch. 2, sec. 10. Rev. Stat. 1838, ch. 85, sec. 10. Acts 1865; Burns 28-233; Baldwin 6583. Stockwell v. State *ex rel.* Johnson (1885), 101 Ind. 1.

Mortgages held by county agent. Rev. Stat. 1838, ch. 89, sec. 15.

Right to rely on record of mortgage. Vincennes Savings and Loan Assn. v. St. John (1938), 213 Ind. 171, 12 N. E. (2d) 127.

<sup>26</sup> Acts 1935; Burns, 1939 suppl., 58-806, 58-809 to 58-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires that a separate record be kept. *Ibid.*

<sup>27</sup> Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.

<sup>28</sup> Rev. Stat. 1838, ch. 69, sec. 7. Rev. Stat. 1843, ch. 42, sec. 5. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 650, p. 182. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. State *ex rel.* Lyons v. Phillips (1901), 157 Ind. 481, 62 N. E. 12.

Corporation employees. Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

<sup>29</sup> Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

<sup>30</sup> Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3792.

<sup>31</sup> Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

<sup>32</sup> Acts 1937; Burns, 1939 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1889; Burns 56-144, 56-145; Baldwin 14702, 14703.

<sup>33</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

lands;<sup>34</sup> surveys establishing a meridian line;<sup>35</sup> surveyor's field notes;<sup>36</sup> maps and plats;<sup>37</sup> notices of disputes of easements;<sup>38</sup> farm names;<sup>39</sup> fence marks;<sup>40</sup> marks and brands of animals;<sup>41</sup> powers of attorney;<sup>42</sup> discharges from military service;<sup>43</sup> charters and proceedings of corporations and associations;<sup>44</sup> limited partnerships;<sup>45</sup> bonds of surviving partners;<sup>46</sup> leases of rolling stock and equipment of railroads;<sup>47</sup> statutory statements of express companies;<sup>48</sup> certificates revoking the admission of foreign corporations to do business

<sup>34</sup> Rev. Stat. 1843, ch. 28, sec. 25. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

Miscellaneous record specified. **Acts** 1897; Burns 56-120.

<sup>35</sup> Acts 1895; Burns 49-3327 to 49-3329; Baldwin 10849 to 10851.

<sup>36</sup> Acts 1828-29, ch. 94, sec. 1. Rev. Laws 1831, ch. 102, sec. 7. Rev. Stat. 1843, ch. 10, secs. 10, 11, 14. 1 Rev. Stat. 1852, **Acts** 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852, **Acts** 1911; Burns 49-3309; Baldwin 5508.

<sup>37</sup> Rev. Laws 1831, ch. 77, sec. 7. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, ch. 9. **Acts** 1881 (Spec. Sess.); Burns 6-1127; Baldwin 3168. **Acts** 1925; Burns 21-219 to 21-221, 21-225, 21-226, 21-228; Baldwin 4644 to 4646, 4650, 4651, 4653. 1 Rev. Stat. 1852; Burns 25-1522; Baldwin 10602. **Acts** 1905; Burns 48-801, 48-802; Baldwin 12473, 12474. 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

<sup>38</sup> 1 Rev. Stat. 1852; Burns 56-804; Baldwin 14775.

<sup>39</sup> Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5488 to 5492.

<sup>40</sup> Acts 1877 (Spec. Sess.); Burns 30-510; Baldwin 7630.

<sup>41</sup> **Acts** 1835-36 (general), ch. 24, sec. 1. Rev. Stat. 1838, ch. 85, sec. 6. Rev. Stat. 1843, ch. 8, secs. 11, 12. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

<sup>42</sup> **Acts** 1881 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. **Acts** 1883; Burns 49-1309, 56-108, 56-109; Baldwin 14733, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-106, 56-107, 56-137; Baldwin 14730, 13731.

<sup>43</sup> **Acts** 1865, ch. 40, sec. 4. **Acts** 1865 (Spec. Sess.), ch. 7, sec. 4. **Acts** 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

The law requires the recording in a separate book and requires an index thereto. *Ibid.*

<sup>44</sup> **Acts** 1820-21, ch. 20, sec. 1. Rev. Laws 1824, ch. 64, secs. 1, 7; ch. 87, secs. 7, 9. **Acts** 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-305, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941, 4942, 4963, 4967, 4969. **Acts** 1883; Burns 25-2002; Baldwin 10681. **Acts** 1909; Burns 25-3602; Baldwin 9280-2.

<sup>45</sup> Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. **Acts** 1859; Burns 50-104, 50-106, 50-112; Baldwin 13195, 13197, 13209.

<sup>46</sup> **Acts** 1877; Burns 50-304; Baldwin 13216.

<sup>47</sup> **Acts** 1891; Burns 55-3716 to 55-3718; Baldwin 15449 to 15451.

<sup>48</sup> **Acts** 1879 (Spec. Sess.); Burns 55-4102; Baldwin 14401.

in this state;<sup>49</sup> and the official bonds of the clerk of the circuit court.<sup>50</sup>

A law provides that, when so directed by the board of commissioners, the recorder must "subscribe for one of each of the newspapers of a political or miscellaneous character published in his county, file the same in his office, and cause said newspapers to be substantially bound, from time to time, in volumes of a convenient size, to be kept in his office for the use of the inhabitants of this state, who shall, at all times during office hours, have access to the same, free of all charge and expense."<sup>51</sup>

Laws formerly required the recorder to record the following documents: Indentures of apprentices;<sup>52</sup> inheritance tax receipts;<sup>53</sup> dentists' certificates of registration;<sup>54</sup> and special assessments against lands benefited by ditches and drains.<sup>55</sup>

The recorder keeps a miscellaneous record in which he records documents for which he keeps no<sup>56</sup> specific book, including many papers, writings, and documents which no law specifically requires him to record.<sup>56</sup>

To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,<sup>57</sup> and

49 Acts 1929; Burns 25-311; Baldwin 4969.

50 Rev. Laws 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec.

89. 1 Rev. Stat. 1852; Burns 49-106; Baldwin 13066.

51 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

52 Rev. Laws 1831, ch. 69, sec. 7. Rev. Stat. 1838, ch. 4, sec. 2. Rev. Stat. 1843, ch. 35, secs. 138, 139. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475.

The law providing for indenturing of apprentices was repealed in 1939. Acts 1939, ch. 10.

53 Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labeled "Transfer Tax."

54 Acts 1887, ch. 32, sec. 9. Acts 1899, ch. 211, sec. 29.

55 Acts 1881 (Spec. Sess.), ch. 43, sec. 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 6. Acts 1905, ch. 157, secs. 4, 14. Acts 1907, ch. 252, secs. 6, 21. Acts 1933, ch. 264, sec. 81.

56 Rev. Laws 1831, ch. 77, sec. 7. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. Interview of May 18, 1939 with E. P. Brennan, state examiner.

57 Acts 1807, ch. 18, secs. 8, 9, 11-13. Acts 1810, ch. 42, sec. 2. Rev. Laws 1831, ch. 41, secs. 7, 11. Rev. Stat. 1838, ch. 44, secs. 7-11. Rev. Stat. 1843, ch. 28, secs. 28-45, 48-51. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1939 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123

the intangible tax thereon (if any) must be paid.<sup>58</sup> No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.<sup>59</sup>

The recorder keeps an entry book in which he enters, as filed, all instruments delivered to him for recording, noting the day and hour received, which is deemed the time of recording. Official receipts for such instruments are issued.<sup>60</sup> The recorder charges the fees required by law. He keeps a combined fee book and cashbook, and enters therein, as received, all money received in his office. Quarterly he reports to the auditor the amount of fees collected by him, and pays such fees (except those he is entitled to retain) over to the treasurer.<sup>61</sup>

The recorder is required to index the deeds, mortgages, and other instruments recorded by him.<sup>62</sup> Information con-

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to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14733.

<sup>58</sup> The acknowledgment or proof must be recorded with the instrument. *Ibid.*

<sup>59</sup> Acts 1933; Burns 64-929; Baldwin 15927.

<sup>60</sup> Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

<sup>61</sup> Acts 1807, ch. 18, sec. 10. Acts 1817-18 (general), ch. 28, sec. 10. Rev. Laws 1831, ch. 77, sec. 4. Rev. Stat. 1838, ch. 85, sec. 4. Rev. Stat. 1843, ch. 8, secs. 6-8; ch. 28, sec. 46. Acts 1895; Burns 49-3203; Baldwin 5472. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3211; Baldwin 14665. *Hand v. Board of County Comrs.* (1866), 26 Ind. 179; *Holman v. Doran* (1877), 56 Ind. 358; *Gilchrist v. Gough* (1878), 63 Ind. 576; *Moore v. Glover* (1888), 115 Ind. 367, 16 N. E. 163.

<sup>62</sup> 1 Acts 1871, ch. 15, secs. 4, 21, 22, 51. Acts 1883, ch. 78, sec. 3. Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1308, 49-1310; Baldwin 7566, 7567. Acts 1895, 1903, 1913; Burns 49-1401, 49-1402, 49-1408, 49-1410; Baldwin 7576, 7577, 7583, 7585. See footnote 12.

Fee charged where single instrument releases or assigns more than one chattel mortgage. *Opinions of the Attorney General of Indiana, 1939*, p. 54.

<sup>63</sup> 1 Rev. Stat. 1825, ch. 44, sec. 1. Rev. Laws 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. *Garrett v. Board of County Comrs.* (1883), 92 Ind. 518.

Deeds. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. 1 Rev. Stat. 1852, Acts 1855; Burns 49-3216, 49-3218; Baldwin 5480, 5482. *Turpen v. Board of County Comrs.* (1855), 7 Ind. 172; *State ex rel. Board of County Comrs. v. Atkinson* (1861), 17 Ind. 26.

Mortgages. 1 Rev. Stat. 1852; Burns 49-3209, 49-3217, 49-3218; Baldwin 5471, 5481, 5482. *Gilchrist v. Gough* (1878), 63 Ind. 576; *Reeder v. State ex rel. Harlan* (1884), 98 Ind. 114.

Index to chattel mortgage minute book. Acts 1935; Burns, 1939 suppl., 51-510; Baldwin, 1935 suppl., 13227-10.

cerning the documents recorded in his office is reported annually to the state division of accounting and statistics.<sup>63</sup>

Printed blank forms (furnished by the county) of deeds, mortgages, and other instruments may be used by the recorder for recording instruments (executed on similar printed forms) for any person who presented 500 or more of such instruments to the recorder for recording during the last preceding year.<sup>64</sup>

The photographic process of recording instruments may be used by the recorder if adopted by the board of commissioners. Such method has never been used generally by the recorder of Morgan County.<sup>65</sup>

Formerly the county treasurer, auditor, and recorder selected petit jurors for the circuit court and court of common pleas.<sup>66</sup>

Forms for the following books were prescribed for recorders by the state board of accounts: A combined fee book and cashbook; register of farm names; chattel mortgage minute book; and abstract of old-age assistance awards. Said board has prescribed forms of blanks for report of fees collected, application for registration of farm names, certificate of registration of farm names, and chattel mortgage receipt.<sup>67</sup>

#### FILING OF INSTRUMENTS FOR RECORDING

##### 65. ENTRY BOOK, 1857-. 15 vols. (C-J, L-R).

Daily entry book of all instruments filed for recording, showing date and time of filing; date, number, and kind of

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Federal tax liens. Acts 1925; Burns 49-3222; Baldwin 10571.

Conditional sales of fixtures. Acts 1935; Burns, 1939 suppl., 58-806, 58-809; Baldwin, 1935 suppl., 14857-5, 14857-8.

Quiet title record. Acts 1911; Burns 3-1409; Baldwin 968.

Discharges from military service. Acts 1925; Burns 59-1003; Baldwin 11003.

Contracts waiving liens of laborers, materialmen, and building contractors. Acts 1921, ch. 56, sec. 1.

<sup>63</sup> Acts 1909; Burns 60-202; Baldwin 13855. *Statistical Report for the State of Indiana for the Period ended June 30, 1939* (Indianapolis, 1940), 56-58.

<sup>64</sup> Acts 1875 (Spec. Sess.), 1919; Burns 49-3206; Baldwin 5487.

<sup>65</sup> Acts 1927; Burns 49-3207; Baldwin 14667.

<sup>66</sup> 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270. See the essay entitled "Circuit Court."

<sup>67</sup> Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

instrument; names of principals; amount of fee; location and description of property; and amount of consideration. Also contains: Recorder's Fee and Cash Book, 1857-1909, entry 103. Arr. num. by instrument nos. No index. Hdw. 588 pp. 18 x 12 x 3. 11 vols., 1857-1925, N. stor. rm., attic; 4 vols., 1926-, recr. vt.

#### LAND TRANSFERS

##### DEEDS

66. GENERAL INDEX TO DEEDS, GRANTOR, 1822-. 12 vols. (1-12).

General index to Deed Record, entry 68; Tax Title Deed Record, 1862-1909, entry 72; Sheriff Deed Record, 1866-1933, entry 74; and Partition Deed Record, 1884-1930, entry 75, showing dates of deed and recording, names of grantor and grantee, kind of deed, amount of consideration, and volume and page reference to recording. Arr. alph. by names of grantors. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

67. GENERAL INDEX TO DEEDS, GRANTEE, 1822-. 12 vols. (1-12).

General index to Deed Record, entry 68; Tax Title Deed Record, 1862-1909, entry 72; Sheriff Deed Record, 1866-1933, entry 74; and Partition Deed Record, 1884-1930, entry 75, showing information as in entry 66. Arr. alph. by names of grantees. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

68. DEED RECORD, 1822-. 108 vols. (A-Z, 27-108).

Transcripts of deeds for conveyance of titles to real property, showing dates of deed and recording, names of grantor and grantee, entry numbers, kind of deed, amount of consideration, and location and description of property. Also contains: Quiet Title Record, 1834-1910, entry 70; Tax Title Deed Record, 1830-61, 1910-, entry 72; Sheriff Deed Record, 1824-65, 1934-, entry 74; Partition Deed Record, 1822-83, 1931-, entry 75; Mortgage Record, 1824-46, entry 80; School Fund Mortgage Record, 1830-46, entry 83; Release Record, 1824-46, entry 84; Chattel Mortgage Record, 1825-46, entry 88; Miscellaneous Record, 1822-61, entry 96; and Will Record, 1822-83, 1933-, entry 102. Arr. chron. by dates of recording. Indexed alph. by names of grantors and grantees; for separate indexes, see entries 66, 67. 1822-Dec. 23, 1902, hdw.; Dec. 24, 1902-, typed. 600 pp. 18 x 12 x 3. Recr. off.

For original uncalled for deeds, 1840-1930, see entry 69.

69. OLD DEEDS, 1840-1930. 20 f. b. (labeled by contained letters of alphabet).

Original deeds filed for recording and uncalled for, showing information as entry 68. Arr. alph. by names of grantees. No index. Hdw. and typed. 8 x 6 x 12. Recr. vt.

70. QUIET TITLE RECORD, 1911-. 2 vols. (1, 2). 1834-1910 in Deed Record, entry 68.

Transcripts of court decrees rendered in causes quieting titles to real property, showing date of trial; date and time of recording; names of plaintiff, defendant, attorneys, and witnesses; cause number; amount of sheriff's fees; location and description of property; and proceedings, findings, and order of court. Arr. chron. by dates of recording. Indexed alph. by names of plaintiffs and defendants; for separate index, see entry 71. 1911-21, hdw.; 1922-, typed. 588 pp. 18 x 12 x 3. Recr. vt.

71. QUIET TITLE INDEX, 1911-. 1 vol.

Index to Quiet Title Record, entry 70, showing dates of filing, decree, and recording; names of plaintiff and defendant; location and description of property; and volume and page reference to recording. Arr. alph. by names of plaintiffs. Hdw. 300 pp. 18 x 12 x 2½. Recr. vt.

72. TAX TITLE DEED RECORD, 1862-1909. 1 vol. 1830-61, 1910- in Deed Record, entry 68.

Transcripts of tax title deeds issued by auditor for property sold for nonpayment of taxes, showing dates of sale, certificate of purchase, and deed; date and time of recording; names of owner and purchaser; amount of sale; and location and description of property. Arr. chron. by dates of recording. Indexed alph. by names of grantors and grantees; for separate index, see entries 66, 67. Hdw. 269 pp. 18 x 10 x 2. Recr. vt.

For original uncalled for tax title deeds, 1850-99, see entry 73.

73. TAX TITLE DEEDS, 1850-99. 1 f. b.

Original tax title deeds filed for recording and uncalled for, showing information as in entry 72. Arr. chron. by dates of deeds. No index. Hdw. 7 x 4 x 9. N. stor. rm., attic.

74. SHERIFF DEED RECORD, 1866-1933. 4 vols. (1-4). 1824-65, 1934- in Deed Record, entry 68.

Transcripts of sheriff's deeds for conveyance of titles to real property sold on court order to satisfy judgments, showing dates of sale, deed, court order, and recording; names of grantor and grantee; amount of consideration; and location

and description of property. Arr. chron. by dates of recording. Indexed alph. by names of sheriffs; for separate indexes, see entries 66, 67. 1866-July 14, 1902, hdw.; Feb. 24, 1903-33, typed. 640 pp. 18 x 12 x 3. Recr. vt.

For sheriff's sale records, see entry 148.

75. PARTITION DEED RECORD, 1884-1930. 2 vols. (1, 2).

1822-83, 1931- in Deed Record, entry 68.

Record of court decrees in actions for partition of real property, showing dates of filing petition, decedent's death, court proceedings, and decree; names of principals; description and valuation of property involved; certification by clerk; and volume and page reference to Probate Order Book, entry 186. Also contains: Will Record, 1884-89, entry 102. Arr. chron. by dates of filing. Indexed alph. by names of principals; for separate indexes, see entries 66, 67. 1884-98, hdw.; 1899-1930, typed. 640 pp. 18 x 13 x 3. Recr. vt.

For other partition records, see entry 175.

76. TRACT BOOK, 1820-53. 1 vol.

Abstracts of original land sales to settlers, showing date of sale, name of purchaser, township, section and range numbers, number of acres, and location and description of property. Arr. num. by Congressional Twp. and range nos. No index. Hdw. 125 pp. 17 x 12 x 2. Recr. vt.

#### PLATS

77. SURVEYOR'S RECORD MORGAN COUNTY, 1819-. 9 vols.

Record of original U. S. surveys of Morgan County and all other surveys made by surveyor, showing dates of survey and recording; names of surveyor and township; section, range, and Congressional Township lines and numbers; county and township boundary lines; plats of each section; and location of streams. Arr. chron. by dates of surveys. No index. Hdw. 200 pp. 15 x 10 x 2. Recr. vt.

For other survey records, see entry 393.

78. PLATS, 1885-. 1 vol.

Plat drawings of cities, towns, additions, and subdivisions, showing dates of transfer and recording; names of city, town, addition or subdivision, and property owner; location and size of public grounds, streets, and alleys; and number and size of lots. Arr. chron. by dates of surveys. No index. Blueprint. 50 pp. 15 x 21 x 1. Recr. off.

For other plat records, see entries 79, 297.

79. PLAT BOOK MORGAN COUNTY, 1819-20. 1 vol.

Copies from files in office of auditor of state of plats of surveys of all lands and territory within the boundary lines

of Morgan County, showing year of survey; name of surveyor; section, range, and Congressional Township lines and numbers; and location of section corners and streams. Arr. num. by section nos. No index. Hdw. 50 pp. 12 x 15 x 1. Recr. vt.

For other plat records, see entries 78, 297.

#### MORTGAGE TRANSACTIONS

##### REAL ESTATE (see also entries 210, 303)

80. MORTGAGE RECORD, 1847-. 69 vols. (A-Z, 27-65, 67-70). 1824-46 in Deed Record, entry 68.

Transcripts of mortgages executed to secure loans on real property, showing dates of mortgage, maturity, satisfaction, and recording; names of mortgagor and mortgagee; recording number; amount and conditions of mortgage; and description and location of property. Also contains: School Fund Mortgage Record, 1847-49, entry 83; Release Record, 1847-87, entry 84; and Chattel Mortgage Record, 1847-73, entry 88. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors; for separate index, see entry 81. 1847-Nov. 18, 1902, hdw.; Dec. 10, 1902-, typed. 600 pp. 18 x 12 x 3. Recr. vt.

81. GENERAL INDEX TO MORTGAGES, 1847-. 12 vols. (1-12). Index to Mortgage Record, entry 80, showing date of recording, names of mortgagor and mortgagee, address of mortgagee, amount of mortgage, location and description of property, and volume and page reference to recording. Arr. alph. by names of mortgagors and mortgagees. Hdw. 325 pp. 18 x 13 x 2½. Recr. vt.

82. MORTGAGE RECORD, HOME LOANS FARM LOANS, Dec. 9, 1933-Apr. 5, 1935. 1 vol. (66).

Record of mortgages executed on homes and farms to secure federal funds, including:

i. Home Owner's Loan Corporation mortgages, Dec. 9, 1933-May 8, 1934, showing dates of mortgage, approval, and maturity; date and time of recording; entry number; names of mortgagor and mortgagee; amount and conditions of mortgage; interest rate; monthly payments; and location and description of property.

ii. Land Bank Commissioners' Loans, Mar. 12, 1934-Apr. 5, 1935, showing dates of mortgage and maturity; date and time of recording; entry number; names of mortgagor and mortgagee; amount and conditions of mortgage; interest rate; amount and manner of payments; and location and description of property.

Arr. chron. by dates of recording. Indexed alph. by names of mortgagors. Typed. 600 pp. 18 x 12 x 3½. Recr. vt.

83. SCHOOL FUND MORTGAGE RECORD, 1850-. 6 vols. (1-6). 1830-46 in Deed Record, entry 68; 1847-49 in Mortgage Record, entry 80.

Transcripts of mortgages executed on real property to secure school fund loans, showing dates of mortgage, maturity, and recording; names of mortgagor and mortgagee; number of loan; location and description of property; and amount and conditions of mortgage. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors. 1850-Oct. 1902, hdw.; Nov. 1902-, typed. 644 pp. 18 x 12 x 3. Recr. vt.

For other school fund records, see entries 217, 218i, 219-222, 250-256, 289-291.

84. RELEASE RECORD, 1888-. 10 vols. (1-10). 1824-46 in Deed Record, entry 68; 1847-87 in Mortgage Record, entry 80.

Record of releases of liens and mortgages on real and personal property, showing dates of filing and release, names of principals, release number, affidavit of satisfaction, and volume and page reference to Mortgage Record, entry 80; and Miscellaneous Record, entry 96. Arr. chron. by dates of filing. Indexed alph. by names of principals. 1888-1902, hdw.; 1903-, typed. 590 pp. 18 x 12 x 3. Recr. vt.

#### CHATTEL

85. CHATTEL MORTGAGE MINUTE BOOK, June 11, 1935-. 1 vol. (38).

##### Contains:

- i. Abstracts of chattel mortgages, showing dates of mortgage, filing, and maturity; entry number; names of mortgagor and mortgagee; amount of mortgage; and description of property.

For prior transcripts of chattel mortgages, see entry 88; for original chattel mortgages, see entry 89i.

- ii. Abstracts of conditional sales contracts, showing dates of contract and filing, entry number, names of vendor and vendee, amount of contract, and description of property.

For original conditional sales contracts, see entry 89ii.

Arr. chron. by dates of filing. For index, see entry 86. Hdw. 400 pp. 16 x 14 x 3. Recr. vt.

86. GENERAL INDEX OF CHATTEL MORTGAGES, 1935-. 1 vol. (13).

Index to Chattel Mortgage Minute Book, entry 85, showing

date and kind of mortgage, date of filing, names of mortgagor and mortgagee, and volume and page reference to recording. Arr. alph. by names of mortgagors and mortgagees. Hdw. 600 pp. 18 x 12 x 3. Recr. vt.

87. [RECEIPTS FOR INSTRUMENTS], 1935-. 2 vols.

Carbon copies of receipts issued for chattel mortgages and conditional sales contracts, showing dates of receipt and instrument, time of filing, names of principals, entry and receipt numbers, and amount of mortgage or contract. Arr. num. by receipt nos. No index. Hdw. 375 pp. 17 x 11 x 3. Recr. vt.

88. CHATTEL MORTGAGE RECORD, 1874-June 10, 1935. 32 vols. 1825-46 in Deed Record, entry 68; 1847-73 in Mortgage Record, entry 80.

Transcripts of mortgages executed to secure loans on personal property, showing dates of mortgage, maturity, satisfaction, and recording; names of mortgagor and mortgagee; amount, number, and conditions of mortgage; recording number; and location and description of property. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors. 1874-1902, hwd.; 1903-35, typed. 588 pp. 18 x 12 x 3. 20 vols., 1874-1922, N. stor. rm., attic; 12 vols., 1923-, recr. vt.

For subsequent abstracts of chattel mortgages, see entry 85i; for original chattel mortgages, see entry 90.

89. [CHATTEL MORTGAGES AND CONDITIONAL SALES CONTRACTS], 1935-. 3 f. d. (labeled by contained letters of alphabet).

Mortgages and contracts, including:

- i. Original chattel mortgages, showing dates of mortgage, filing, and maturity; entry number; names of mortgagor and mortgagee; amount and conditions of mortgage, description of property, and volume and page reference to Chattel Mortgage Minute Book, entry 85. Arr. alph. by names of mortgagors.

For abstracts of chattel mortgages, see entry 85i.

- ii. Original conditional sales contracts, showing dates of contract and filing, entry number, names of vendor and vendee, amount and conditions of contract, description of property, and volume and page reference to Chattel Mortgage Minute Book, entry 85. Arr. alph. by names of vendors.

For abstracts of conditional sales contracts, see entry 85ii.

No index. Hdw. and typed. 11 x 5 x 26. Recr. off.

90. MORTGAGES AND RELEASES, RECORDED PRIOR TO 1912, 1896-1911. 10 f. b. (labeled by contained letters of alphabet).

Original chattel mortgages and releases uncalled for after recording, showing dates of instrument, recording, and release; entry number; names of mortgagor and mortgagee; amount and conditions of mortgage; description of property; and volume and page reference to Chattel Mortgage Record, entry 88. Arr. chren. by dates of recording. No index. Hdw. and typed. 7 x 4 x 9. Recr. vt.

For transcripts of chattel mortgages, see entry 88.

#### LIENS

91. IMPROVED LIVE STOCK LIEN RECORD, 1889-. 1 vol. Record of liens for services of sires, showing dates of lien, recording, and service; names of owners of sire and dam; amount and conditions of lien; and descriptions of sire and dam. Arr. chron. by dates of recording. Indexed alph. by names of sires' owners. Hdw. 590 pp. 18 x 12 x 3. Recr. vt.

92. ABSTRACT OF OLD AGE ASSISTANCE CERTIFICATES FILED, 1936-. 1 vol.

Abstracts of old-age assistance award certificates establishing liens against property of recipients, showing dates of certificate and recording; name and address of recipient; entry, certificate, and application numbers; and location and description of property. Arr. alph. by names of recipients. No index. Typed. 600 pp. 18 x 14 x 3. Recr. vt.

For other old-age assistance records, see entries 93, 284, 316, 365-375.

93. [OLD-AGE ASSISTANCE AWARD CERTIFICATES], 1936-. 1 f.d. Copies of old-age assistance award certificates, showing dates of certificate and filing, name and address of recipient, amount of monthly award, application and certificate numbers, and conditions of award. Arr. alph. by names of recipients. No index. Typed. 12 x 15 x 26. Recr. off.

For other old-age assistance records, see entries 92, 284, 316, 365-375.

94. DRAINAGE RECORD, 1899-1922. 1 vol. Discontinued. Record of notice of allotments apportioned and assessments levied establishing liens against land benefited by drainage ditches, showing date of recording, share and station numbers, length of apportionment, names of landowners, location and description of land benefited, amount of benefits, and

specifications. Arr. chron. by dates of recording. Indexed alph. by names of ditches. Hdw. 295 pp. 18 x 12 x 3. Recr. vt.

95. MECHANICS' LIENS, RECORDED PRIOR TO 1912, 1901-11.  
1 f. b. 1848-1900 in [Miscellaneous Instruments],  
entry 97.

Original mechanics' liens uncalled for after recording, showing information as in entry 96vi. Arr. chron. by dates of recording. No index. Hdw. and typed. 7 x 4 x 9. Recr. vt.

#### MISCELLANEOUS RECORDS

96. MISCELLANEOUS RECORD, 1862-. 15 vols. (1-15). 1822-61 in Deed Record, entry 68.

Transcripts of miscellaneous documents, including:

- i. Affidavits, showing dates of affidavit and recording, and name and statement of affiant.
- ii. Articles of incorporation, amendments to articles of incorporation, and dissolutions of corporations, showing dates of incorporation, amendment, dissolution, and recording; name of corporation; place of business; amount of capital stock; description of seal; and names of officers.
- iii. Bills of sale, showing dates of sale and recording, description and itemized list of property, names of vendor and purchaser, and amount realized.
- iv. Certificates of election of officers of churches, lodges, and societies, showing dates of election and recording; names of church, lodge or society, and officer elected; and title of officer.
- v. Contracts, showing dates of contract and recording, names of principals, location and description of property, and conditions of contract.
- vi. Mechanic liens, showing date of lien and recording, names of principals, instrument number, and description of real property or materials furnished.  
For original mechanics' liens, see entry 95.
- vii. Occasional recordings of articles of partnership, tenants agreements, leases, easements, powers of attorney, stock marks and brands, bills of sale, and premarital agreements, showing dates of instrument and filing, conditions of instrument, and names of principals.

Arr. alph. by names of principals. No index. 1862-1901, hdw.; 1902-, typed. 250 pp. 18 x 13 x 3. Recr. vt.

97. [MISCELLANEOUS INSTRUMENTS], 1843-1911. 1 f. b., 5  
pigeon holes.

Original miscellaneous instruments uncalled for after re-recording, including:

- i. Affidavits, showing information as in entry 96i.
- ii. Articles of incorporation, amendments to articles of incorporation and dissolutions of corporations, showing information as in entry 96ii.
- iii. Articles of partnership, tenants agreements, leases, easements, powers of attorney, stock marks and brands, bills of sale and premarital agreements, showing information as in entry 96-vii.
- iv. Bills of sale, showing information as in entry 96iii.
- v. Certificates of election of officers of churches, lodges, and societies, showing information as in entry 96iv.
- vi. Contracts, showing information as in entry 96v.

Also contains: Mechanics' Liens, Recorded Prior to 1912, 1843-1900, entry 95. Arr. chron. by dates of recording. No index. Hdw. and typed. F. b., 7 x 4 x 9; pigeon holes, 5 x 4 x 8. Recr. vt.

98. SOLDIER'S DISCHARGE RECORD, 1865-. 1 vol.

Transcripts of soldiers', sailors', and marines' official discharges from service, showing date of filing and entry number; dates and places of enlistment and discharge; name, age, date, and place of birth; occupation at time of enlistment; physical description; and branch of service of soldier, sailor, or marine. Arr. chron. by dates of filing. Indexed alph. by names of soldiers, sailors, and marines. Hdw. and typed. 420 pp. 18 x 13 x 3. Recr. vt.

For other military records, see entries 53, 54.

99. MISCELLANEOUS RECORD SHERIFF'S CERTIFICATES, 1875-. 1 vol.

Transcripts of sheriff's certificates of sale of personal property sold on court orders to satisfy judgments, showing dates of certificate of sale, court order, sale, and recording; names of plaintiff, defendant, purchaser, and sheriff; amounts of judgment and costs; and description of property. Arr. chron. by dates of recording. Indexed alph. by names of sheriffs. Hdw. 560 pp. 18 x 12 x 2½. Recr. vt.

100. RECORD OF FARM NAMES, 1913-. 1 vol.

Record of names given farms by owners for purpose of identifying farm and products, showing dates of registration and

recording, name of farm, entry number, and location and description of farm. Arr. chron. by dates of recording. Indexed alph. by names of farms. Typed. 685 pp. 18 x 12 x 3. Recr. vt.

101. STATE EXAMINER'S REPORTS, 1930-. 1 f. b. Reports of audits of recorder's records; by field examiners of state board of accounts, showing dates of audit and report; names of funds, recorder, and examiners; condition of accounts; and recommendations of examiners. Arr. chron. by dates of reports. No index. Typed. 7 x 4 x 9. Recr. off.

102. WILL RECORD, 1890-1932. 2 vols. (1, 2). 1822-83, 1933- in Deed Record, entry 68; 1884-89 in Partition Deed Record, entry 75.

Transcripts of wills, showing dates of will, filing and recording; names of testator, witnesses, heirs, and executor; and lists and conditions of bequests. Arr. chron. by dates of recording. Indexed alph. by names of testators. 1890-1902, hdw.; 1903-32, typed. 600 pp. 18 x 12 x 3. Recr. vt.

For other will records, see entries 176, 178.

#### FEE AND CASH RECORDS

103. RECORDER'S FEE AND CASH BOOK, 1910-. 6 vols. (1-6). 1857-1909 in Entry Book, entry 65.

Record of fees received for recording instruments, showing date of receipt, name of payer, number and kind of instrument, amount of fees, total collected, and date and amount paid treasurer. Arr. num. by instrument nos. No index. Hdw. 322 pp. 18 x 12 x 3. Recr. vt.

#### MAPS

104. MAP OF MORGAN COUNTY INDIANA, 1931. 1 map.

Political and communication map, showing date of map; county and township boundary lines; section, range, and Congressional Township lines and numbers; plats of lands outside of cities and towns; names of owners; acreage of each tract; names and locations of cities, towns, and villages; locations of streams, cemeteries, and highways; and rural route and state highway numbers. Drawn by Cecil Molinelli, Martinsville. Blueprint. Scale: 1" to 1 mi. 32 x 48. Recr. off.

105. MAP OF MARTINSVILLE, INDIANA, 1891. 1 map.

Communication map of Martinsville, showing date of map; city boundary lines; original plat and additions; block and lot

numbers; location of streets, alleys, railroads, industrial plants, schools, courthouse, and places of interest; and names of streets and additions. Drawn by C. G. H. Goss, Martinsville. Blueprint. Scale: 1" to 180'. 36 x 40. Recr. off.

106. MAP OF MARTINSVILLE, INDIANA, 1920. 1 map.

Political and communication map of Martinsville, showing date of map; city boundary lines; original plat and additions; block and lot numbers; size of lots, location of streets, alleys, railroads, industrial plants, and schools; names of streets and additions; and precinct numbers. Drawn by Cecil Molinelli, Martinsville. Black and white. Scale: 1" to 300'. 30 x 36. Recr. off.

For maps of Martinsville, 1926, 1928, see entries 107, 108.

107. MAP OF MARTINSVILLE, INDIANA, 1926. 1 map.

Political and communication map of Martinsville, showing information as in entry 106. Drawn by Cecil Molinelli, Martinsville. Engraved by Renicke-Fiegel Litho. Co., St. Louis, Mo. Scale: 1" to 800'. 36 x 40. Recr. off.

108. MAP OF MARTINSVILLE, INDIANA, 1928. 1 map.

Political and communication map of Martinsville, showing information as in entry 106. Drawn by Cecil Molinelli, Martinsville. Blueprint. Scale: 1" to 300'. 36 x 40. Recr. off.

## V. CIRCUIT COURT

### LEGAL STATUS

The circuit court was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Morgan County since 1822. Since 1851 the court has consisted of one judge elected for a 6-year term by the voters of the judicial circuit.<sup>1</sup> Since August 1, 1911 Morgan County alone has constituted the 15th judicial circuit.<sup>2</sup> The official name of the court is "Morgan Circuit Court."<sup>3</sup>

<sup>1</sup> Const. 1851, art. 7, secs. 1, 8, 9. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395. Acts 1925, 1929; Burns 4-3220; Baldwin 1258. See footnotes 22 and 23 herein.

<sup>2</sup> Before August 1, 1911 Morgan County belonged to judicial circuits composed of more than one county. See footnote 33 herein.

<sup>3</sup> Acts 1881 (Spec. Sess.); Burns 4-302; Baldwin 1396.

The judge of the circuit court is commissioned by the Governor of Indiana<sup>4</sup> and holds office until his successor is elected and qualified.<sup>5</sup> For 3 years next before his candidacy for election the judge must have been duly admitted to practice law in Indiana and also must have practiced or taught law or acted as an officer of the state or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).<sup>6</sup> During the term for which he was elected, the judge cannot hold any office of trust or profit under the state other than a judicial office;<sup>7</sup> and while holding the office of judge of the circuit court the judge must reside within the circuit,<sup>8</sup> must not hold any other lucrative office,<sup>9</sup> and must not practice law.<sup>10</sup> He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>11</sup>

A statute provides that the judge of the circuit court shall receive a regular salary of \$4,200 per year payable monthly out of the state treasury.<sup>12</sup> The constitution provides that an increase or decrease in the compensation of the judge cannot take effect until the expiration of the incumbent's term of office.<sup>13</sup>

If the judge is convicted of corruption or other high crime, he may, on an information in the name of the state, be removed from office by the supreme court.<sup>14</sup> This is the only method by which the judge may be removed from office.<sup>15</sup>

Any vacancy in the office of judge of the circuit court is filled through appointment by the governor. At the next

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<sup>4</sup> Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>5</sup> Const. 1851, art. 15, sec. 3.

<sup>6</sup> Acts 1939; Burns, 1939 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

<sup>7</sup> Const. 1851, art. 7, sec. 16.

<sup>8</sup> *Ibid.*, sec. 9.

<sup>9</sup> Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

<sup>10</sup> Acts 1881 (Spec. Sess.), ch. 37, sec. 114. Acts 1905; Burns 10-3101; Baldwin 2635.

<sup>11</sup> Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>12</sup> Acts 1921; Burns 4-3209; Baldwin 1225.

<sup>13</sup> Const. 1851, art. 7, sec. 13; art. 15, sec. 2 (as amended in 1926).

<sup>14</sup> *Ibid.*, art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

<sup>15</sup> State v. Dearth (1929), 201 Ind. 1, 164 N. E. 489; State *ex rel.* Youngblood v. Warrick Circuit Court (1935), 208 Ind. 594, 196 N. E. 254. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

biennial general election, held on the 1st Tuesday after the 1st Monday in November in the even-numbered years, a judge is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath as was required of his predecessor, and holds office until his successor is elected and qualified.<sup>16</sup>

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.<sup>17</sup> If for 9 months the regular judge is incapable (on account of sickness, mental incapacity, or otherwise) of discharging his duties, and the clerk certifies the facts to the secretary of state, the governor may appoint some practicing attorney within the circuit to serve as judge *pro tempore* during the continuance of the disability of the regular judge.<sup>18</sup>

If the regular judge is disqualified in any particular cause by prejudice, relationship, or interest, and the parties do not object to the regular judge making nominations for a special judge, the regular judge may designate the names of three other judges or attorneys, and the plaintiff and defendant may each strike one of such names. The person whose name remains after such striking may serve as special judge in that particular cause. If the parties object to the regular judge making such nominations, the clerk certifies the facts to the clerk of the Supreme Court of Indiana, who, acting under the direction of the supreme court, selects the names of three persons; and each party may strike one name as aforesaid. If the parties agree on the selection of a special judge, the regular judge will appoint the person thus selected.<sup>19</sup>

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<sup>16</sup> Const. 1851, art. 5, sec. 18. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State *ex rel.* Custer v. Schortemeier (1926), 197 Ind. 507, 151 N. E. 407; State *ex rel.* Middleton v. Scott Circuit Court (1938), 214 Ind. 643, 17 N. E. (2d) 464.

<sup>17</sup> 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 4, 17. Acts 1855; Burns 4-317; Baldwin 1423. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

<sup>18</sup> Acts 1871; Burns 4-317 to 4-319; Baldwin 1423 to 1425.

<sup>19</sup> 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 3, 4. Acts 1905, 1907; Burns 2-1409; Baldwin 207. Acts 1937; Burns, 1939 suppl., 2-1424 to 2-1430, 9-1316 to 9-1325; Baldwin, 1937 suppl., 207-1 207-5, 194-1, 2223-1, 2222-1 to 2222-5, 2223-2 to 2223-5.

The judge of the first judicial district of the Supreme Court of Indiana may preside at the trial of any case pending in Morgan Circuit Court when the judge of the latter court is "incompetent to preside."<sup>20</sup>

With the organization of Morgan County in 1822,<sup>21</sup> there was established in the county, as required by the mandatory provisions of the Constitution of 1816, a circuit court composed of a president judge and two associate judges. The president judge was elected for the circuit by joint ballot of both houses of the general assembly. The associate judges were elected in the county by the voters thereof.<sup>22</sup> All judges were commissioned by the governor and held office for the term of 7 years.<sup>23</sup> Recess appointments of president judges were made by the governor when the general assembly was not in session.<sup>24</sup> The president judge alone or any two judges could hold a court; but the presence of the president was required in capital-punishment cases and cases in chancery. The president judge presided when he and one or both associate judges were present. The president judge could control the action of the court when he and one associate judge were present; and any two judges could control the action of the court when all three judges were present.<sup>25</sup> Since the adoption of the Constitution of 1851, the circuit court has consisted of one judge elected by the voters of the judicial circuit for a 6-year term.<sup>26</sup>

The circuit court created by the Constitution of 1816 had original jurisdiction of naturalization proceedings under the federal laws, all criminal cases under the state laws (except those punishable only by fine not exceeding \$8, of which the justices of the peace had exclusive original jurisdiction),

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<sup>20</sup> Acts 1872 (Spec. Sess.); Burns 4-102; Baldwin 1308. 2 Rev. Stat. 1852; Burns 4-113; Baldwin 1321. *Roster of State and Local Officials of the State of Indiana*, 1940, p. 8. Interview of April 26, 1940 with Paul Stump, clerk of the supreme court.

<sup>21</sup> Acts 1821-22, ch. 24, sec. 1.

<sup>22</sup> Const. 1816, art. 5, secs. 3, 7. Acts 1816-17, ch. 2, sec. 2; ch. 3, sec. 4; ch. 14, secs. 1, 8. Acts 1817-18 (general), ch. 2, sec. 2. Rev. Laws 1824, ch. 24, sec. 2. Rev. Laws 1831, ch. 22, sec. 2. Rev. Stat. 1838, ch. 23, sec. 2. Rev. Stat. 1843, ch. 33, secs. 1-4.

<sup>23</sup> Const. 1816, art. 5, sec. 4; art. 11, sec. 9.

<sup>24</sup> *Ibid.*, art. 4, sec. 9.

<sup>25</sup> *Ibid.*, art. 5, sec. 3. Fuller v. State (1820), 1 Blackford 63; Cook v. State (1844), 7 Blackford 165; Miller v. Burger (1850), 2 Ind. 337.

Adjournment for lack of quorum. Acts 1816-17, ch. 2, sec. 10.

<sup>26</sup> Const. 1851, art. 7, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395.

all civil actions at law, all equity cases (including suits for divorce), insanity inquests and commitments, guardianships, probate of wills, and administration of estates of decedents. The associate judges were sometimes called "The Probate Court" when exercising their jurisdiction concerning decedents' estates.<sup>27</sup> Some of the original jurisdiction of the circuit court was transferred in 1829 to the probate court, which is discussed hereinafter. The circuit court had appellate jurisdiction to review decisions of the board doing county business,<sup>28</sup> justices of the peace,<sup>29</sup> the probate court,<sup>30</sup> and the court of common pleas.<sup>31</sup> Decisions of the circuit court were reviewable by the Supreme Court of Indiana.<sup>32</sup>

From the organization of the Morgan Circuit Court until the present time, Morgan County has belonged to the following judicial circuits: 1822 until January 26, 1842, fifth circuit (Allen, Bartholomew, Boone, Carroll, Cass, Decatur, Grant, Greene, Hamilton, Hancock, Hendricks, Henry, Jennings, Johnson, Lawrence, Madison, Marion, Monroe, Morgan, Owen, Rush, and Shelby); January 26, 1842 until November 6, 1852, tenth circuit (Brown, Daviess, Greene, Lawrence, Martin, Monroe, Morgan, and Owen); November 6, 1852 until March 6, 1873, sixth circuit (Clay, Greene, Monroe, Morgan, Owen,

<sup>27</sup> U. S. Stat. 2:153, 155 (law of 1802); 4:69 (law of 1824). Const. 1816, art. 5, sec. 3. Acts 1816-17, ch. 2, secs. 5-8; ch. 3, secs. 2, 3; ch. 4, sec. 19. Acts 1817-18 (general), ch. 2, secs. 5-7; chs. 3, 13. Acts 1821-22, ch. 73, sec. 4. Rev. Laws 1824, ch. 24, secs. 4-6. Acts 1825, ch. 35, secs. 1-3. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23, secs. 3-7, 12; ch. 31, sec. 1. Rev. Stat. 1843, ch. 35, secs. 22-72; ch. 38, secs. 6-32. Prentiss v. Porter (1822), 1 Blackford 525; Mills v. Bradley (1827), 1 Blackford 541; State v. Albertson (1829), 2 Blackford 251; Bequette v. Lasselle (1840), 5 Blackford 443; Sherry v. Winton (1848), 1 Ind. 96.

<sup>28</sup> Rev. Stat. 1838, ch. 21, secs. 28, 29; ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43, ch. 11, sec. 11; ch. 16, sec. 56; ch. 17, sec. 18. Reddington v. Hamilton (1846), 8 Blackford 62; Taylor v. Lucas (1846), 8 Blackford 289; Malone v. Hardesty (1848), 1 Ind. 79.

<sup>29</sup> Acts 1816-17, ch. 5, sec. 18. Rev. Stat. 1838, ch. 4, sec. 5; ch. 6, secs. 5, 11; ch. 19, sec. 16; ch. 43, sec. 6; ch. 58, secs. 11, 80, 90; ch. 79, sec. 21. Rev. Stat. 1843, ch. 19, secs. 23, 46; ch. 23, sec. 10; ch. 33, sec. 162; ch. 41, secs. 11, 42, 43; ch. 42, sec. 63; ch. 43, secs. 9-13; ch. 45, secs. 173-176, 193, 216; ch. 47, secs. 159-182; ch. 55, sec. 21.

<sup>30</sup> Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

<sup>31</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550.

<sup>32</sup> Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91.

Putnam, Sullivan, and Vigo); March 6, 1873 to date, fifteenth circuit (Greene, Morgan, and Owen). Every county which was in the designated circuits at any time during the designated periods is shown above. There were numerous transfers of counties to and from those circuits during those periods. Before August 1, 1911 Morgan County belonged to judicial circuits always composed of more than one county. The fifteenth circuit was composed of the counties of Greene, Morgan, and Owen from March 6, 1873 until February 20, 1883, at which time Greene was omitted. Owen was omitted on August 1, 1911, and since then Morgan County alone has constituted the fifteenth circuit.<sup>33</sup> An act of March 4, 1911, effective August 1, 1911, provided for four terms of court each year in Morgan County, beginning on the 2d Monday in February, the 1st Monday in May, the 1st Monday in September, and the 3d Monday in November, each term lasting so long as the business of the court requires, except that the May term cannot last longer than 10 weeks.<sup>34</sup> Many laws were enacted by the legislature before 1911 for the purpose of regulating the commencement and duration of terms of court in the Morgan Circuit Court.<sup>35</sup>

A probate court, consisting of one judge, was established in Morgan County in 1829. The judge was elected for a 7-year term by the voters of the county. The court had exclusive original jurisdiction over guardianships, probate of wills,

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<sup>33</sup> Acts 1831-22, ch. 40, secs. 5, 10. Acts 1822-23, ch. 47, sec. 4. Rev. Laws 1824, ch. 26, sec. 1. Acts 1825, ch. 16, secs. 4, 5. Acts 1825-26, ch. 11, secs. 1, 2. Acts 1826-27, ch. 91, sec. 7. Acts 1827-28, ch. 18, sec. 6. Acts 1828-29, ch. 25, sec. 1. Acts 1829-30, ch. 28 (first act), sec. 1. Acts 1830-31 (special), ch. 12, sec. 6. Rev. Laws 1831, ch. 23, sec. 1. Acts 1831-32, ch. 157, sec. 3. Acts 1832-33, ch. 3, sec. 3. Acts 1840-41 (general), ch. 35, sec. 1. Acts 1841-42 (general), ch. 24, sec. 1. Acts 1851-52, ch. 21, sec. 6. Acts 1867, ch. 25, sec. 1. Acts 1873, ch. 29, sec. 16. Acts 1882, ch. 13, sec. 2. Acts 1911, ch. 131, sec. 3.

<sup>34</sup> Acts 1911, ch. 131, sec. 3.

<sup>35</sup> Acts 1821-22, ch. 40, sec. 10. Acts 1822-23, ch. 47, sec. 4. Rev. Laws 1824, ch. 26, sec. 6. Acts 1825, ch. 16, sec. 3. Acts 1825-26, ch. 11, sec. 2. Acts 1826-27, ch. 18, sec. 3. Acts 1827-28, ch. 18, sec. 1. Acts 1828-29, ch. 25, sec. 1. Acts 1829-30, ch. 28 (second act), sec. 5. Rev. Laws 1831, ch. 23, sec. 6. Acts 1831-32, ch. 157, sec. 3. Acts 1832-33, ch. 67, sec. 4. Acts 1835-36 (general), ch. 9, secs. 1, 2. Acts 1836-37 (general), ch. 9, secs. 1, 2. Rev. Stat. 1838, ch. 23 (sixth act), secs. 1, 2. Acts 1838-39 (general), ch. 2, sec. 6. Acts 1839-40 (general), ch. 54, sec. 1. Acts 1841-42 (general), ch. 24, sec. 1. Acts 1844-45 (general), ch. 56, sec. 1. Acts 1846-47 (general), ch. 11, sec. 1. Acts 1848-49 (general), ch. 41, sec. 1. Acts 1849-50, ch. 44, secs. 1, 2. Acts 1851-52, ch. 22, sec. 1. Acts 1871, ch. 26, sec. 1. Acts 1873, ch. 29, sec. 54. Acts 1877 (Spec. Sess.), ch. 10, sec. 1. Acts 1883, ch. 13, sec. 6. Acts 1905, ch. 35, secs. 1, 2.

and settlement of decedents' estates; and had original jurisdiction (concurrent with the circuit court) over dower proceedings, partition proceedings, and actions concerning guardians, heirs, devisees, executors, and administrators.<sup>36</sup> Except as hereinafter stated, the court held four terms each year, commencing on the 2d Monday in February, May, August, and November, each term lasting 6 days. After December 23, 1846 each term could last 2 weeks.<sup>37</sup> After June 15, 1852 the judge of the circuit court could act for the judge of the probate court when he failed to hold a regular term of court.<sup>38</sup> Decisions of the probate court were reviewable by the Morgan Circuit Court or the Supreme Court of Indiana.<sup>39</sup> The probate court was abolished on May 6, 1853, and its jurisdiction and business were transferred to the court of common pleas.<sup>40</sup>

A court of common pleas, consisting of one judge, was established in Morgan County in May 1853. The judge was elected for a 4-year term by the voters of the common pleas district, originally composed of the counties of Brown, Monroe, and Morgan.<sup>41</sup> Originally the court of common pleas held four terms of court in Morgan County each year, beginning on the 1st Monday in January, April, July, and October, each term lasting 3 weeks if the business of the court required it. If the circuit court was in session at the time for commencement of a term of the court of common pleas, the term began on the 1st Monday following the completion of the term of the circuit court. An act of March 3, 1855 reduced the terms to 2 weeks and authorized special terms for the completion of any business scheduled for regular terms and remaining unfinished at adjournment of the term. After August 6, 1859 only three regular terms could be held each year. From August 6, 1859 until October 1, 1860 the terms began in Morgan County on the 1st Monday in January, May, and September. From October 1, 1860 until December 20, 1865

<sup>36</sup> Const. 1816, art. 5, sec. 4. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1-5. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1-13.

<sup>37</sup> Acts 1831-32, ch. 159, sec. 1. Rev. Stat. 1838, ch. 24, sec. 68. Rev. Stat. 1843, ch. 39, sec. 40. Acts 1846-47 (general), ch. 45, sec. 1.

<sup>38</sup> Acts 1851-52, ch. 34, secs. 1, 3.

<sup>39</sup> Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

<sup>40</sup> 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Jones v. Cavins (1853), 4 Ind. 305.

<sup>41</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 1, 3, p. 16. Jones v. Cavins (1853), 4 Ind. 305.

the terms began in Morgan County on the 1st Monday in February, June, and October. After December 20, 1865 the terms began on the 3d Monday of January and the 1st Monday of June and October.<sup>42</sup> An act of March 1, 1859 provided that the judicial district should be composed of the counties of Brown, Johnson, Monroe, Morgan, and Shelby.<sup>43</sup> The court of common pleas had exclusive original jurisdiction over insanity inquests and commitments, guardianships, probate of wills, and settlement of estates of decedents, minors, and insane persons; and had original jurisdiction (concurrent with the circuit court) over naturalization proceedings, equity cases, criminal cases (except offenses punishable by death and offenses punishable only by fine not exceeding \$3, and except all felonies where the defendant did not voluntarily submit himself to the jurisdiction of the court), and civil actions at law (except slander, libel, breach of marriage contract, titles to real estate, actions on bonds of state and county officers, and actions to recover less than \$50 or more than \$1,000-judgment could be rendered for more than \$1,000 when based on consent). Any case in which the judge was disqualified could be transferred to the circuit court.<sup>44</sup> Decisions of the court of common pleas were reviewable by the Morgan Circuit Court or the Supreme Court of Indiana.<sup>45</sup> The court of common pleas was abolished on March 6, 1873, and its jurisdiction and business were transferred to the circuit court.<sup>46</sup>

The constitution provides for tribunals of conciliation with such powers and duties as may be prescribed by law, but without power to render an enforceable judgment in the absence of agreement of the parties to abide the judgment of such tribunal.<sup>47</sup> Accordingly, the general assembly, by an

<sup>42</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 29-31, p. 21. Acts 1853, ch. 33, secs. 1, 2. Acts 1855, ch. 27, secs. 54, 93, 94. Acts 1859, ch. 47, secs. 8, 23; ch. 51, sec. 3. Acts 1861, ch. 33, sec. 1. Acts 1865 (Spec. Sess.), ch. 43, sec. 1. Acts 1867, ch. 28, sec. 1. Jones v. Cavins (1853), 4 Ind. 305.

<sup>43</sup> Acts 1859, ch. 51, sec. 1.

This district, composed of said counties, was officially designated "the eighth district." Acts 1861, ch. 28, sec. 1.

<sup>44</sup> U. S. Stat. 2:153, 155 (law of 1802); 4:69 (law of 1824). 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 5, 7, 9, 11, 12, 14, 17, 21, 23.

<sup>45</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550; ch. 10, secs. 189-193; ch. 11, secs. 43-46.

<sup>46</sup> Acts 1873, ch. 29, secs. 79-88.

<sup>47</sup> Const. 1851, art. 7, sec. 19.

act of 1852 which became effective on May 6, 1853, established in the county a court of conciliation, to be held by the judge of the court of common pleas. It had jurisdiction of claims and controversies submitted to it for the purpose of effecting a compromise or for determination. In cases of libel, slander, assault and battery, false imprisonment, and malicious prosecution, the complaining party could have the opposite party served with a notice requiring him to appear before the court. Hearings were private and informal. Controversies submitted by both parties to the court for determination were determined according to right and conscience without regard to technical rules. The judge was required to keep a book containing a memorandum of proceedings and the judgment. The law did not authorize an appeal to another court.<sup>48</sup> This court was abolished in 1865.<sup>49</sup>

#### FUNCTIONS AND RECORDS

The circuit court has original jurisdiction of naturalization proceedings under the federal laws, all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction), all civil actions at law, all suits in equity, divorce and alimony proceedings, declaratory judgment proceedings, juvenile matters, insanity inquests and commitments, election contests, proceedings for removal of county officers, quo warranto proceedings, proceedings for mandate, prohibition, and injunction, proceedings to quiet title to real estate, partition proceedings, ne exeat proceedings, habeas corpus proceedings, proceedings to commit persons to hospitals operated by Indiana University, eminent domain proceedings, proceedings to establish drainage districts and assessments, proceedings for change of names, adoption proceedings, receiverships, bastardy proceedings, guardianships, probate of wills, and administration of estates of decedents, minors, and insane persons. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.<sup>50</sup> The United States Department

<sup>48</sup> 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 1-3, 5-8, 12, 13, 18, 20. Jones v. Cavins (1853), 4 Ind. 305.

<sup>49</sup> Acts 1865 (Spec. Sess.), ch. 57.

<sup>50</sup> General provisions. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Naturalization proceedings. U. S. Stat. 2:153, 155 (law of 1802); 4:69 (law of 1824). U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913).

Criminal cases within exclusive jurisdiction of justices of the peace. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

of Labor does not furnish the Morgan Circuit Court with the

Divorce and alimony. Acts 1873, 1933; Burns 3-1203, 3-1217; Baldwin 904, 926. Acts 1903; Burns 3-1232; Baldwin 935. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Declaratory judgment proceedings. Acts 1927; Burns 3-1101 to 3-1116; Baldwin 438-453.

Election contests. Acts 1933, 1935; Burns, 1939 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. State *ex rel.* Lord v. Sullivan (1938), 214 Ind. 279, 15 N. E. (2d) 384.

Removal of county officers. Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. Bateman v. State (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

Eminent domain. Acts 1905, 1935; Burns, 1939 suppl., 3-1702; Baldwin, 1935 suppl., 14062. Acts 1905; Burns 3-1707; Baldwin 14068.

Quo warranto. Acts 1881 (Spec. Sess.), 1929; Burns 3-2001 to 3-2016; Baldwin 1045, 1046, 1054, 1047 to 1053, 1055 to 1060.

Drainage districts and assessments. Acts 1933; Burns 27-104, 27-109, 27-116, 27-122, 27-134; Baldwin 5740, 5745, 5752, 5758, 5770. Penn v. Ducomb (1938), 213 Ind. 133, 12 N. E. (2d) 116.

Change of name. 2 Rev. Stat. 1852, 1905; Burns 3-801 to 3-805; Baldwin 869 to 873.

Adoption. Acts 1855, 1883; Burns 3-101, 3-103; Baldwin 681, 684.

Receiverships. Acts 1881 (Spec. Sess.); Burns 3-2601 *et seq.*; Baldwin 1143 *et seq.*

Bastardy proceedings. 2 Rev. Stat. 1852; Burns 3-606 to 3-614, 3-616; Baldwin 851, 855, 856, 859, 852, 854, 857, 858, 860, 865. 2 Rev. Stat. 1852, 1877, 1935; Burns, 1939 suppl., 3-605, 3-615; Baldwin 1935 suppl., 850, 861.

Mandate and prohibition. Acts 1881 (Spec. Sess.), 1911, 1915, 1933; Burns 3-2201 to 3-2208; Baldwin 1090 to 1093, 1095, 1095-1, 1096, 1097.

Injunction. Acts 1881 (Spec. Sess.), 1899; Burns 3-2101 to 3-2120; Baldwin 1061 to 1080.

Quieting title. Acts 1881 (Spec. Sess.), 1911, 1915; Burns 3-1401 to 3-1410; Baldwin 966, 3303, 3304, 967, 942, 943, 970, 969, 968, 968 note. Acts 1935; Burns, 1939 suppl., 3-1417, 3-1418; Baldwin, 1935 suppl., 558-1, 558-2.

Partition. 2 Rev. Stat. 1852, Acts 1881 (Spec. Sess.), 1897; Burns 3-2401 *et seq.*; Baldwin 1106 *et seq.*

Ne exeat. Acts 1881 (Spec. Sess.); Burns 3-2301 to 3-2307; Baldwin 1102, 1105, 1098, 1099, 1100, 1101, 1103.

Habeas corpus. Acts 1881 (Spec. Sess.); Burns 3-1901 to 3-1925; Baldwin 1020 *et seq.*

Juvenile matters. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

Insane persons. 2 Rev. Stat. 1852, Acts 1895; Burns 8-202 *et seq.*; Baldwin 3460 *et seq.* Acts 1855; Burns 22-1401 *et seq.*; Baldwin 1081 *et seq.* Acts 1939; Burns, 1939 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

Wills. 2 Rev. Stat. 1852; Burns 7-401, 7-414, 7-503, 7-506; Baldwin 3376, 3388, 3393, 3401. Acts 1911, 1921, 1933; Burns 7-504; Baldwin 3395.

Hospitals operated by Indiana University. Acts 1939; Burns, 1939 suppl., 28-5417; Baldwin, 1939 suppl., 14078-89c.

"Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal views, and even though it shocks our sense of justice and fairness." State v. Brown (1937), 213 Ind. 118, 124, 11 N. E. (2d) 679.

necessary printed forms for naturalization proceedings, hence this court is prevented from exercising its naturalization jurisdiction. Naturalization forms were furnished to this court until 1926 and will be furnished again whenever the number of aliens in the county is large enough.<sup>51</sup>

The circuit court has appellate jurisdiction<sup>52</sup> to review decisions of justices of the peace,<sup>53</sup> city courts,<sup>54</sup> board of commissioners,<sup>55</sup> board of review fixing value of property for taxation,<sup>56</sup> taxing authorities determining that property is taxable,<sup>57</sup> board of public works or board of park commissioners of any city in the county (or city council performing such functions),<sup>58</sup> and other inferior tribunals when no express direction is given as to the court to which the appeal lies.<sup>59</sup>

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to punish contempts; to issue all process necessary for the exercise of its jurisdiction (including process to inferior courts);<sup>60</sup> and to adopt rules for conducting its business.<sup>61</sup> Decisions of the circuit court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.<sup>62</sup>

The judge of the circuit court is a conservator of the peace throughout his judicial circuit,<sup>63</sup> and takes all necessary recognizances to keep the peace "or to answer any criminal charge or offense in the court having jurisdiction."<sup>64</sup>

<sup>51</sup> Interview of March 5, 1940 with Walter A. Kiefer, Assistant District Director of U. S. Immigration and Naturalization Service, Cincinnati District.

<sup>52</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

<sup>53</sup> 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

<sup>54</sup> Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

<sup>55</sup> Acts 1879 (Spec. Sess.) 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. State *ex rel.* Sink v. Cass Circuit Court (1938), 214 Ind. 323, 15 N. E. (2d) 624.

<sup>56</sup> Acts 1927; Burns 64-1020; Baldwin 15686.

<sup>57</sup> Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

<sup>58</sup> Acts 1933; Burns 48-4501; Baldwin 11576.

<sup>59</sup> Hamilton v. Fort Wayne (1880), 73 Ind. 1.

<sup>60</sup> 2 Rev. Stat. 1852; Burns 4-305 to 4-307, 4-312; Baldwin 1398 to 1400, 1405.

Contempt. Universal Credit Co. v. Talcott (1938), 213 Ind. 228, 12 N. E. (2d) 141.

<sup>61</sup> 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

<sup>62</sup> 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

<sup>63</sup> Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

<sup>64</sup> 2 Rev. Stat. 1852; Burns 4-314; Baldwin 1407. State v. Cooper (1883), 90 Ind. 575.

He is a member of the commission of public records.<sup>65</sup> He appoints one member of the county school fund board,<sup>66</sup> five members of the county board of public welfare,<sup>67</sup> two members of the county board of review,<sup>68</sup> four members of the county board of tax adjustment,<sup>69</sup> and eight members of the county hospital governing board.<sup>70</sup> He would appoint three members of the county public library board<sup>71</sup> if a county library were established in the county. He may appoint two tobacco inspectors for the county,<sup>72</sup> special prosecuting attorneys (in case of disqualification or failure to attend court),<sup>73</sup> special county commissioners (in case of disqualification),<sup>74</sup> and attorneys to represent poor persons in the circuit court.<sup>75</sup> Under the provisions of an act of 1939 he may appoint magistrates for a court to be known as "The Magistrates Court of Morgan County," but no such magistrates have been appointed.<sup>76</sup> He approves the official bonds of the prosecuting attorney,<sup>77</sup> the county director of public welfare,<sup>78</sup> and collection agencies.<sup>79</sup> He makes certificates of "qualification and moral character" concerning persons applying to the governor for appointments as notaries public.<sup>80</sup>

65 Acts 1939; Burns, 1939 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

66 Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

67 Acts 1926 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

68 Acts 1895, ch. 36, sec. 2. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

69 Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

70 Acts 1903, 1939; Burns, 1939 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

71 Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510; Baldwin, 1939 suppl., 10321.

72 Acts 1857; Burns 67-308; Baldwin 9461.

73 Rev. Laws 1824, ch. 24, sec. 12. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. Perfect v. State (1926), 197 Ind. 401, 141 N. E. 52; State *ex rel.* Williams v. Ellis (1916), 184 Ind. 307, 112 N. E. 98; State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

74 Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

75 Acts 1831 (Spec. Sess.); Burns 2-211; Baldwin 26. Acts 1913; Burns 2-1417; Baldwin 199. Acts 1905; Burns 9-1314; Baldwin 2235. *Opinions of the Attorney General of Indiana, 1939*, p. 351.

76 Acts 1939; Burns, 1939 suppl., 4-3802; Baldwin, 1939 suppl., 2008-2.

77 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

78 Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

79 Acts 1937; Burns, 1939 suppl., 10-5001; Baldwin, 1937 suppl., 2468-5.

80 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

He can solemnize marriages,<sup>81</sup> administer oaths,<sup>82</sup> take acknowledgments and proofs of deeds and other documents,<sup>83</sup> waive certain provisions of the marriage license law requiring laboratory tests and medical certificates,<sup>84</sup> issue licenses for carrying pistols,<sup>85</sup> and certify as to the authenticity of transcripts of the records and proceedings of the court.<sup>86</sup>

In pursuance of appropriations by the county council,<sup>87</sup> the judge of the circuit court may make allowances against the county for expense of administration of justice.<sup>88</sup> Such allowances include compensation of witnesses,<sup>89</sup> jurors,<sup>90</sup> master commissioners,<sup>91</sup> sheriff,<sup>92</sup> bailiffs,<sup>93</sup> court reporter,<sup>94</sup> page,<sup>95</sup> and attorneys appointed to represent poor persons.<sup>96</sup>

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes all process of the court.<sup>97</sup> Bailiffs (appointed by the judge as

<sup>81</sup> Acts 1897; Burns 44-301; Baldwin 5621.

<sup>82</sup> Rev. Stat. 1852; Burns 4-312; Baldwin 1405. Acts 1861; Burns 49-601; Baldwin 13053.

<sup>83</sup> 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

<sup>84</sup> Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

<sup>85</sup> Acts 1935, 1937; Burns, 1939 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

<sup>86</sup> Acts 1881 (Spec. Sess.); Burns 2-1605, 2-1617, 2-3106; Baldwin 273, 258, 459. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520; Baldwin 392. Acts 1903, 1933; Burns 2-3112; Baldwin 466. 2 Rev. Stat. 1852; Burns 4-307; Baldwin 1400. Acts 1905; Burns 9-2103; Baldwin 2315.

<sup>87</sup> Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

<sup>88</sup> Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

<sup>89</sup> 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

<sup>90</sup> Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

<sup>91</sup> Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

<sup>92</sup> Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

<sup>93</sup> Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

<sup>94</sup> Acts 1921, 1939; Burns, 1939 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300.

<sup>95</sup> *Opinions of the Attorney General of Indiana, 1936*, p. 312.

<sup>96</sup> Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2275. *Opinions of the Attorney General of Indiana, 1939*, p. 351.

<sup>97</sup> 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494. See the essay entitled "Sheriff."

needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his deputy performs these duties.<sup>98</sup> In the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office, the coroner performs these duties of the sheriff;<sup>99</sup> and in the event also of the absence, personal interest, or incapacity of the coroner, or vacancy in his office, the judge appoints an elisor to perform these duties of the sheriff.<sup>100</sup> The prosecuting attorney acts as attorney for the state in criminal cases under state laws and as attorney for the county and state in certain civil cases.<sup>101</sup> The probation officer (appointed by the judge for an indefinite term when needed) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.<sup>102</sup> The county director of public welfare performs duties of the probation officer when so directed by the court.<sup>103</sup> The court reporter (appointed by the judge for an indefinite term) takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.<sup>104</sup> Two jury commissioners (annually appointed by the judge) prepare lists of names from which grand juries and petit juries are drawn.<sup>105</sup> The

<sup>98</sup> 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, pt. 1, ch. 6, sec. 4. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. Adams v. State (1938), 214 Ind. 603, 17 N. E. (2d) 84. *Opinions of the Attorney General of Indiana*, 1939, p. 312.

<sup>99</sup> 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5437.

<sup>100</sup> 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

<sup>101</sup> 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Freed v. Martin Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910; State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020. See the essay entitled "Prosecuting Attorney."

<sup>102</sup> Acts 1903, ch. 237, sec. 2. Acts 1925, ch. 213. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2364.

<sup>103</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

<sup>104</sup> Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1238 to 1292, 1298-1, 1776, 1297-1, 1293, 1300. Adams v. State (1938), 214 Ind. 603, 17 N. E. (2d) 84.

<sup>105</sup> Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939; Burns, 1939 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Crickmore v. State (1938), 213 Ind. 586, 12 N. E. (2d) 266; Johnson v. State (1938), 213 Ind. 659, 14 N. E. (2d) 96; Foreman v. State (1938), 214 Ind. 79, 14 N. E. (2d) 546.

court page (appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.<sup>106</sup>

The clerk of the circuit court, in person or by deputy, performs numerous duties for the circuit court. All new actions and proceedings of the circuit court are filed in the office of the clerk, and are numbered in consecutive order as filed.<sup>107</sup> He is charged by statute with the duty of keeping and preserving the official records of the court.<sup>108</sup>

The clerk of the Morgan County Circuit Court files pleadings and other court papers and endorses thereon the time of such filing;<sup>109</sup> issues summonses,<sup>110</sup> notices for service by publication,<sup>111</sup> attachment writs,<sup>112</sup> garnishment writs,<sup>113</sup> replevin writs,<sup>114</sup> ejectment writs,<sup>115</sup> habeas corpus writs,<sup>116</sup> warrants,<sup>117</sup> commitments,<sup>118</sup> executions,<sup>119</sup>

<sup>106</sup> Dunn v. State *ex rel.* Corydon (1933), 204 Ind. 390, 184 N. E. 535. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

<sup>107</sup> Acts 1881 (Spec. Sess.); Burns 2-1053; Baldwin 158. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>108</sup> 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>109</sup> Acts 1816-17, ch. 2, sec. 12; ch. 4, sec. 28; ch. 5, secs. 1, 2, 18. Acts 1817-18 (general), ch. 4, sec. 17. Rev. Laws 1824, ch. 73, secs. 1, 7, 15, 27; ch. 74, secs. 1, 18-21, 33, 41; ch. 79, secs. 8, 38. Rev. Stat. 1843, ch. 38, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

<sup>110</sup> Acts 1816-17, ch. 2, sec. 8; ch. 4, sec. 5. Acts 1817-18 (general), ch. 60, sec. 3; ch. 61, sec. 3. Rev. Laws 1824, ch. 24, sec. 7; ch. 73, secs. 1, 2, 10, 22; ch. 74, secs. 2, 3, 9-11, 24. Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

Summonses in criminal cases. Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1905; Burns 9-1013; Baldwin 2138.

<sup>111</sup> Rev. Laws 1824, ch. 73, sec. 3. Acts 1881 (Spec. Sess.), 1885, 1935; Burns, 1939 suppl., 2-807; Baldwin, 1935 suppl., 88.

<sup>112</sup> Rev. Laws 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

<sup>113</sup> Acts 1881 (Spec. Sess.), 1897; Burns 3-522; Baldwin 791.

<sup>114</sup> Acts 1881 (Spec. Sess.); Burns 3-2703, 3-2704; Baldwin 1200, 1201.

<sup>115</sup> Acts 1927; Burns, 3-1305; Baldwin 945.

<sup>116</sup> Acts 1881 (Spec. Sess.); Burns 3-1909; Baldwin 1044.

<sup>117</sup> Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1905; Burns 9-1003, 9-2237; Baldwin 2136, 2347.

<sup>118</sup> Acts 1905, 1939; Burns, 1939 suppl., 9-725; Baldwin, 1939 suppl., 2094. Acts 1905, 1927; Burns 9-2228; Baldwin 2335.

<sup>119</sup> Acts 1816-17, ch. 4, sec. 36; ch. 5, sec. 22. Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 1. Rev. Laws 1824, ch. 10, sec. 1; ch. 74, sec. 55. Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 522, 531, 532, 427, 528 to 530, 535, 524. Acts 1905; Burns 9-2226; Baldwin 2332.

witness subpoenas,<sup>120</sup> letters of guardianship,<sup>121</sup> letters testamentary, and letters of administration;<sup>122</sup> takes depositions of witnesses;<sup>123</sup> approves and files judicial bonds,<sup>124</sup> including bonds of executors, administrators,<sup>125</sup> and guardians;<sup>126</sup> administers and files the official oaths of executors, administrators,<sup>127</sup> and guardians;<sup>128</sup> performs the statutory and customary duties of clerk at trials;<sup>129</sup> keeps dockets, order books, judgment records, final record books,<sup>130</sup> inheritance tax records,<sup>131</sup> receivership records,<sup>132</sup> guardianship records,<sup>133</sup> records concerning the administration

<sup>120</sup> Acts 1816-17, ch. 4, sec. 12. Rev. Laws 1824, ch. 74, sec. 16. Acts 1881 (Spec. Sess.); Burns 2-1701; Baldwin 289.

<sup>121</sup> 2 Rev. Stat. 1852; Burns 8-101; Baldwin 3418. State *ex rel.* Cecil v. Christian (1895), 13 Ind. App. 308, 41 N. E. 603.

<sup>122</sup> Acts 1817-18 (general), ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 79, sec. 4. Acts 1881 (Spec. Sess.), 1901; Burns 6-201, 6-301; Baldwin 3025, 3030.

<sup>123</sup> Acts 1881 (Spec. Sess.); Burns 2-1501; Baldwin 211.

<sup>124</sup> Acts 1816-17, ch. 4, sec. 36; ch. 5, sec. 18. Acts 1817-18 (general), ch. 13, sec. 19. Rev. Laws 1824, ch. 5, sec. 24; ch. 74, sec. 13; ch. 79, sec. 2. Rev. Laws 1831, ch. 6, secs. 1, 26. Acts 1881 (Spec. Sess.); Burns 2-3209, 2-3402, 3-303, 3-508, 3-519, 6-501, 6-1506, 6-2001; Baldwin 484, 538, 726, 776, 788, 3048, 3229, 3277. 2 Rev. Stat. 1852; Burns 7-502; Baldwin 3396. 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421.

Releasing cost bond. *Opinions of the Attorney General of Indiana, 1939*, p. 9.

<sup>125</sup> Acts 1881 (Spec. Sess.), 1939; Burns, 1939 suppl., 6-501, 6-1128; Baldwin, 1939 suppl., 3048, 3169. Acts 1881 (Spec. Sess.); Burns 6-502, 6-804; Baldwin 3049, 3085.

<sup>126</sup> 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

<sup>127</sup> Acts 1881 (Spec. Sess.), 1939; Burns, 1939 suppl., 6-501; Baldwin, 1939 suppl., 3048.

<sup>128</sup> 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

<sup>129</sup> Acts 1816-17, ch. 3, sec. 3. Rev. Laws 1824, ch. 10, sec. 1. Rev. Laws 1831, ch. 15, sec. 1. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>130</sup> Acts 1816-17, ch. 2, sec. 12; ch. 4, secs. 1, 11, 12, 28, 32. Acts 1817-18 (general), ch. 3, sec. 11. Rev. Laws 1824, ch. 73, sec. 15; ch. 74, secs. 15, 33, 55. Rev. Stat. 1843, ch. 38, secs. 48, 51; ch. 40, secs. 189, 367, 487. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 358. Acts 1881 (Spec. Sess.), 1929; Burns 2-1103, 2-2520, 2-3314; Baldwin 179, 392, 524. 2 Rev. Stat. 1852, Acts 1885 (Spec. Sess.), 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Docketing appeals. Acts 1881 (Spec. Sess.); Burns 2-3226; Baldwin 500.

<sup>131</sup> Acts 1913, ch. 47, secs. 17, 18. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

<sup>132</sup> Acts 1911; Burns 3-2607; Baldwin 1147.

<sup>133</sup> Acts 1846-47 (general), ch. 54, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205, 6-2206; Baldwin 3014, 3288. Acts 1889; Burns 8-137; Baldwin 3424.

of decedents' estates,<sup>134</sup> and records of redemptions from judicial sales;<sup>135</sup> he files and records orders, judgments,<sup>136</sup> indictments,<sup>137</sup> recognizances,<sup>138</sup> notices of lis pendens,<sup>139</sup> probated wills,<sup>140</sup> inventories and accounts of trustees,<sup>141</sup> sheriff's certificates of sale of real estate,<sup>142</sup> and warrants issued by the state department of treasury for the collection of gross income taxes;<sup>143</sup> makes arrangements for the admission of feeble-minded persons to the Fort Wayne State School or the Muscatatuck Colony, after the judge has entered an order of commitment thereto;<sup>144</sup> files coroner's inquest papers, including recognizances, written evidence, verdict, and report;<sup>145</sup> receives money deposited in court pending the decision of the court;<sup>146</sup> receives payments on judgments of

<sup>134</sup> Acts 1817-18 (general), ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 79, secs. 8, 38. Acts 1891, ch. 194, sec. 114. Acts 1909, ch. 10, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205, 6-2206; Baldwin 3014, 3288.

<sup>135</sup> Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

<sup>136</sup> Acts 1816-17, ch. 5, sec. 22. Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 5. Rev. Laws 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1. Rev. Stat. 1843, ch. 38, sec. 40. Acts 1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520, 2-2706; Baldwin 392, 421. Acts 1915; Burns 3-1410; Baldwin 968. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>137</sup> 2 Rev. Stat. 1852, pt. 3, ch. 1, sec. 68 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126. Neal v. State (1938), 214 Ind. 328, 14 N. E. (2d) 590, 15 N. E. (2d) 950.

<sup>138</sup> Acts 1881 (Spec. Sess.); Burns 2-3402; Baldwin 538. Acts 1905, 1927, 1933; Burns 9-723, 9-1029, 9-1042; Baldwin 2092, 2163, 2175. 2 Rev. Stat. 1852; Burns 49-2907; Baldwin 5441.

<sup>139</sup> Acts 1877 (Spec. Sess.), ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 96, 101, 102, 97 to 100. Acts 1893; Burns 2-822; Baldwin 103. Acts 1905; Burns 56-505; Baldwin 14708-1. Pfeiffer Hardware Co. v. Auburn State Bank (1937), 104 Ind. App. 472, 8 N. E. (2d) 98.

<sup>140</sup> Domestic probate. Acts 1817-18 (general), ch. 13, sec. 2. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411; Baldwin 3385.

Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

<sup>141</sup> Acts 1937; Burns, 1939 suppl., 6-2514; Baldwin, 1937 suppl., 3221-14.

<sup>142</sup> These certificates and assignments thereof are recorded in the lis pendens record. Acts 1881 (Spec. Sess.); Burns 2-3909; Baldwin 622.

<sup>143</sup> These warrants are recorded in the judgment record. Acts 1933, 1937; Burns, 1939 suppl., 64-2613(a); Baldwin, 1937 suppl., 15993(a). *Opinions of the Attorney General of Indiana, 1938*, p. 303.

<sup>144</sup> Acts 1939; Burns, 1939 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

<sup>145</sup> 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2907 to 49-2909; Baldwin 5441 to 5443.

<sup>146</sup> Acts 1881 (Spec. Sess.); Burns 2-4711; Baldwin 1214. Acts 1905; Burns 2-4712, 9-1026; Baldwin 1213, 2160.

record in his office;<sup>147</sup> draws up each day's proceedings at full length in the proper order book (which is signed by the judge); enters in a final record book a complete record of causes finally determined;<sup>148</sup> prepares and certifies transcripts of proceedings for change of venue from the county<sup>149</sup> or for appeal to a higher court;<sup>150</sup> and prepares budget estimates for the circuit court.<sup>151</sup>

The clerk keeps the jury box containing names selected by the jury commissioners (the key thereto being kept by a jury commissioner), draws therefrom names of persons to serve on the grand jury and petit jury, records their names in the order book, and issues a venire to require such persons to appear in court.<sup>152</sup>

Under authority of the federal laws the clerk formerly filed naturalization declarations and certificates, kept a record of naturalization proceedings, and made reports thereof to the United States Immigration and Naturalization Service.<sup>153</sup> Formerly he issued certificates showing discharge of apprentices by the court.<sup>154</sup> From 1829 until 1853 he was

<sup>147</sup> Acts 1875; Burns 49-2719; Baldwin 1438.

<sup>148</sup> Acts 1816-17, ch. 3, sec. 3. Acts 1817-18 (general), ch. 3, secs. 62, 63; ch. 66, sec. 5. Rev. Laws 1824, ch. 10, sec. 1; ch. 74, sec. 54. Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

<sup>149</sup> Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.); Burns 2-1406; Baldwin 191. Acts 1905; Burns 9-1305; Baldwin 2226.

Fees on change of venue, and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. *Opinions of the Attorney General of Indiana, 1934*, p. 128.

<sup>150</sup> Acts 1903, 1915; Burns 2-3104; Baldwin 462. Acts 1881 (Spec. Sess.); Burns 2-3105; Baldwin 455. Acts 1903, 1933; Burns 2-3112; Baldwin 466.

<sup>151</sup> Acts 1899; Burns 26-516; Baldwin 5380.

<sup>152</sup> Acts 1817-18 (general), ch. 48, secs. 2, 3. Rev. Laws 1824, ch. 56, secs. 1-3. Rev. Laws 1831, ch. 53, secs. 1, 2. Acts 1881 (Spec. Sess.), 1939; Burns, 1939 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Acts 1881 (Spec. Sess.), 1895, 1913; Burns 4-3305, 4-3306; Baldwin 1272, 1270.

Failure to empty the jury box at beginning of year held not ground for reversal of manslaughter conviction. *Crickmore v. State* (1938), 213 Ind. 586, 12 N. E. (2d) 266.

Objection to irregularities in the selection, impaneling, or swearing of grand jury should be raised by plea in abatement. *Johnson v. State* (1938), 213 Ind. 659, 14 N. E. (2d) 96.

<sup>153</sup> U. S. C., title 8, secs. 357, 400 (laws of 1906, 1911, 1913). U. S. Executive Order (June 10, 1933) 6166, sec. 14. Acts 1933, 1937; Burns, 1939 suppl., 49-1007; Baldwin, 1937 suppl., 7537.

<sup>154</sup> Acts 1817-18 (general), ch. 51, sec. 2. Rev. Laws 1824, ch. 3, sec. 2. Rev. Laws 1831, ch. 4, sec. 2.

ex officio clerk of the probate court (abolished in 1853),<sup>155</sup> and from 1853 until 1873 he was ex officio clerk of the court of common pleas (abolished in 1873).<sup>156</sup>

The state board of accounts has prescribed forms for the following records: Entry and issue docket and fee book; estate entry claim and allowance docket and fee book; guardianship docket and fee book; support docket; index and record of receiverships; and judgment docket.<sup>157</sup>

### CIVIL CAUSES

#### FILING OF ACTIONS

109. ENTRY & ISSUE DOCKET & FEE BOOK, 1913-. 32 vols. (1-32).

Record of filing of actions, causes set for trial, and fees and costs assessed, showing nature and number of cause; dates of filing, sheriff's return, proceedings, collection, and payment of fees and costs, names of plaintiff, defendant, payer, and payee; amount and nature of fees and costs; and disposition of cause. This is a combination of three records formerly kept separately: Entry Docket, Civil, entry 110; Issue Docket, Circuit Court, entry 130; and Fee Book, Civil, entry 153. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs; for separate index, 1930-, see entry 112. Hdw. 600 pp. 18 x 12 x 4. Clk. vt.

110. ENTRY DOCKET, CIVIL, 1888-95, 1906-12. 3 vols. (6, 9, 10). 1913- in Entry & Issue Docket & Fee Book, entry 109.

Record of filing of actions, showing dates of filing, issuing process, and judgment; nature and number of cause; names of plaintiff, defendant, and attorneys; and volume and page reference to Fee Book, Civil, entry 153. Arr. num. by cause nos. No index. Hdw. 500 pp. 18 x 12 x 3. S. stor. rm., attic.

#### ORIGINAL DOCUMENTS

111. [COURT DOCUMENTS]. 1850-. 1,094 f. b. (3 f. b. unlabeled; 1-1,000, 1-91). Title varies: Old Papers Preserved From Fire of 1876, 1850-76. 3 f. b. Original documents filed in civil, estate, and guardianship

<sup>155</sup> Acts 1829-30, ch. 26, sec. 3. Rev. Laws 1831, ch. 25, sec. 7. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

<sup>156</sup> 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 25, 26. Acts 1873; Burns 4-328; Baldwin 1417.

<sup>157</sup> Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

causes, including complaints, motions, denials, appointments, wills, appraisements, sale bills, claims, reports, demurrers, subpoenas, summonses, writs and appeals, costs, and bonds of administrators, guardians, executors, and trustees, showing date of filing; date, nature, and number of cause; names of plaintiff, defendant, estate, sureties, ward, guardian, and administrator or executor; and nature of action taken. Also contains: Trusteeships, 1876-1918, entry 126; Transcripts, J[ustice] P[eace], 1933-, entry 137; Certified Copies of Judgments, 1876-1930, entry 138; State Papers, 1876-1904, 1929-, entry 158; Instructions to Juries, 1876-1904, 1929-, entry 159; Recoguizance Bonds, 1876-1904, entry 162; and Receipts of Change of Venue, 1891-1934, entry 196. Arr. num. by cause nos. 1850-1929, no index; for index 1930-, see entry 112. Hdw. and typed. 7 x 4 x 9. 583 f. b., 1850-Aug. 3, 1909, S. stor. rm., attic; 511 f. b., Aug. 4, 1909-, clk. vt.

112. GENERAL INDEX TO ENTRY DOCKETS, 1930-. 1 vol.

Index to Entry & Issue Docket & Fee Book, entry 109; [Court Documents], entry 111; State Fee Book, entry 156; Estate Entry Claim & Allowance Docket & Fee Book, entry 165; and Guardianship Docket and Fee Book, entry 167, showing date of filing; names of plaintiff, defendant, estate, and guardianship; cause number; volume and page reference to recording; and file box reference. Arr. alph. by names of plaintiffs in civil, defendants in criminal, and estates and guardianships in probate causes. Hdw. 588 pp. 18 x 13 x 3. Clk. vt.

113. CAUSES PENDING, CIVIL, 1936-. 21 f. d. (labeled by contained letters of alphabet).

Original documents in civil causes pending, including complaints, cross complaints, motions, denials, entries, interrogatives, summonses, and subpoenas, showing date of filing; names of plaintiff, defendant, and attorneys; cause number; nature of actions; and volume and page reference to Order Book [Civil and Criminal], entry 181; and Fee Book, Civil, entry 153. Arr. alph. by names of plaintiffs. No index. Hdw. and typed. 10 x 4 x 14. Clk. off.

CORONER'S INQUESTS

114. RECORD OF CORONER'S INQUESTS AND VERDICTS, 1897-. 4 vols. (1-4).

Record of coroner's inquests to establish cause of sudden, accidental, and violent deaths, showing dates of death, inquest, and verdict; name, age, sex, color, height, and weight

of deceased; names and testimony of witnesses; cause of death; and coroner's verdict. Arr. chron. by dates of inquests. Indexed alph. by names of deceased. Hdw. 600 pp. 18 x 12 x 3½. 1 vol., 1897-Mar. 3, 1901, C. C., S. stor. rm., attic; 3 vols., Mar. 4, 1901-, cor. off., 171 E. Washington St., Martinsville.

For original coroner's inquest reports, see entry 115.

115. CORONER'S INQUESTS, 1876-. 11 f. b.

Coroner's reports on inquests held to establish cause of violent, accidental, and sudden deaths, showing same information as in entry 114. Arr. chron. by dates of inquests. No index. Hdw. and typed. 9 x 7 x 4. 8 f. b., 1876-1933, S. stor. rm., attic; 3 f. b., 1934-, clk. vt.

#### INSANITY, FEEBLE-MINDEDNESS, AND EPILEPSY

116. INSANITY & EPILEPTIC PAPERS, 1876-. 16 f. b. Title varies: Insanity Papers, 1876-1932. 11 f. b.

Original documents filed in causes of alleged insanity, feeble-mindedness, and epilepsy, including record of inquests, warrants of arrest, record of proceedings to recommit, responses to applications for admission to state institutions, clothing requisitions, receipts of admission, and notices of discharge or death, showing date of document and filing; names of patient, examining physicians, witnesses, and institution; cause number; list of clothing furnished; amount of fees and costs; and institution's receipt for patient. Arr. chron. by dates of filing. No index. Hdw. and typed. 12 f. b., 1876-1925, S. stor. rm., attic; 4 f. b., 1926-, clk. vt.

117. INSANE RECORD, 1877-. 6 vols. (1, 2; 4 vols. unlabeled).

Record of proceedings in causes of alleged insanity and feeble-mindedness, including:

- i. Inquests and proceedings for commitment, showing dates of petition, filing, inquest, commitment, and discharge or death; name, age, sex, address, and personal history of patient; names of petitioner, examining physicians, and witnesses; cause number; and proceedings. Arr. chron. by dates of filing.
- ii. Proceedings to recommit, showing dates of physician's statement, previous admission, discharge, and recommitment; name and address of patient; names of physician and institution; cause number; and proceedings. Arr. chron. by dates of physicians' statements.

Also contains: Epileptic Record, 1877-1915, entry 118. Indexed alph. by names of patients. Hdw. 600 pp. 18 x 12 x 3½. 4 vols., 1877-May 1927, S. stor. rm., attic; 2 vols., June 1927-, clk. vt.

118. EPILEPTIC RECORD, 1916-. 1 vol. (1). 1877-1915 in Insane Record, entry 117.

Record of proceedings in epilepsy cases, showing dates of petition for admittance to state institution, warrant, sheriff's return, and commitment; institution receipt and notice of discharge or death; name, age, sex, address, and personal and family history of patient; names of attending and examining physicians and institution; and proceedings. Arr. chron. by dates of petitions. Indexed alph. by names of patients. Hdw. 270 pp. 18 x 12 x 2. Clk. vt.

#### HOSPITALIZATION

119. RILEY HOSPITAL RECORD, 1928-. 2 vols.

Record of petitions and orders for admittance of children to Riley Hospital, showing dates of petition, filing, and court order; names of child, petitioner, parents or guardian, and official or person designated to deliver child to hospital; address of petitioner, parents, or guardian; and relationship to child. Arr. chron. by dates of filing petitions. Index alph. by names of children. Hdw. 588 pp. 18 x 13 x 3. Clk. vt.

120. RILEY HOSPITAL PAPERS, 1931-. 18 f. b.

Original documents for admittance of children to Riley Hospital, including petitions, reports, court orders, and receipts, showing dates of documents and filing; name, age, sex, color, nature of illness or deformity, and case history of child; names, addresses, and financial status of parents; recommendation of county department of public welfare; court orders for admission and delivery; and hospital superintendent's receipt of admission. Arr. chron. by dates of filing. No index. Hdw. and typed. 7 x 4 x 9. 11 f. b., 1931-36, S. stor. rm. attic; 7 f. b., 1937-, clk. vt.

121. MORGAN COUNTY MEMORIAL HOSPITAL PAPERS, 1934-. 2 f. b.

Original documents for admission and treatment of patients by Morgan County Memorial Hospital, including petitions, reports, court orders, and receipts, showing dates of document and filing; name, age, sex, address, nature of illness, personal history, and financial status of patient and family; and volume and page reference to Order Book [Civil and Criminal] entry 131. Arr. chron. by dates of filing. No index. Hdw. and typed. 7 x 4 x 9. Clk. vt.

## NATURALIZATION

122. RECORD OF DECLARATION OF INTENTION, 1876-. Last entry 1926. 2 vols. Title varies: Naturalization Record, First Papers, 1876-1908. 1 vol.

Record of declarations of intention by aliens to become United States citizens, showing date of declaration; name, address, occupation, sex, race, nationality, date and place of birth, and physical description of alien; marital status; dates and places of birth and residences of children; names of native country; port of departure; sailing vessel and port of entry; last foreign address; dates of emigration and arrival; and number of arrival certificate. Arr. chron. by dates of declarations. Indexed alph. by names of aliens. Hdw. 100 pp. 12 x 9 x 1. S. stor. rm., attic.

123. PETITION AND RECORD, 1876-. 1 vol. (1). Last entry 1926.

Record of petitions for naturalization, affidavits of witnesses and oaths of allegiance, showing date and number of petition; name, address, occupation, sex, marital status, and race of petitioner; dates and places of birth and addresses of children; names of native country, port of emigration, sailing vessel, and port of entry; last foreign address; dates of departure and arrival; length of residence in country; oath of allegiance to United States and renunciation of foreign alliance; names and addresses of witnesses; cause and certificate of arrival numbers; and court order. Arr. chron. by dates of petitions. Indexed alph. by names of petitioners. Hdw. 302 pp. 17 x 9 x 2. S. stor. rm., attic.

124. CERTIFICATE OF NATURALIZATION, 1891-. 1 vol. Last entry 1926.

Stubs of naturalization certificates, showing date and number of certificate; name, address, and age of naturalized citizen; names, ages, and addresses of marital partner and minor children; name of county, court, and judge where declaration of intention was filed; and volume and page reference to Order Book [Civil and Criminal], entry 181. Arr. chron. by dates of certificates. No index. Hdw. 100 pp. 8 x 12 x 1. S. stor. rm., attic.

## RECEIVER AND TRUSTEESHIPS

125. BANK RECEIVERSHIPS, 1915-. 2 vols. (1; 1 vol. unlabeled).

Record of receivership and assignment causes, showing cause number; dates of filing, sheriff's return, and proceedings;

names of receivership, receiver, assignors, assignees, and claimants; inventory and appraised valuation of property; amounts of assets and liabilities; and volume and page reference to Entry & Issue Docket & Fee Book, entry 109; and Order Book [Civil and Criminal], entry 131. Arr. num. by cause nos. 1915-31, indexed alph. by names of receiverships; 1932-, no index. Hdw. 300 pp. 18 x 12 x 3. 1 vol., 1915-31. clk. vt.; 1 vol., 1932-, cir. ct. rm.

126. TRUSTEESHIPS, 1914-. 1 f. b. 1876-1912 in [Court Documents], entry 111.

Original instruments filed in trusteeship causes, including appointments of trustees, bonds posted, and reports to court, showing cause number; date of filing; date and nature of instrument; names of ward, trustees, and sureties; amount of bond; and volume and page reference to Order Book [Civil and Criminal], entry 131. Arr. alph. by names of wards. No index. Typed. 7 x 4 x 9. Clk. vt.

127. RECORD OF RECEIVER'S, TRUSTEE'S AND OFFICIAL BONDS, 1934-. 1 vol. (4).

Record of bonds posted by trustees in bankruptcy causes, showing dates of bond, approval, and filing; names of trustee and sureties; and amount and condition of bond. Also contains: Record of Official Bonds, entry 28. Arr. chron. by dates of filing. Indexed alph. by names of trustees. Hdw. 600 pp. 18 x 13 x 3. Clk. off.

#### MINUTES

128. TRANSFER CIVIL DOCKET, 1876-. 37 vols. (10, 11, 13-26; 3 vols. unlabeled; 1-18). Title varies: Court Docket, Civil, 1876-1912. 18 vols.

Record of proceedings and actions in civil causes, showing cause number; names of plaintiff, defendant, and attorneys; dates of filing, court term, and action; nature of action; court proceedings and orders; and disposition. Also contains: Criminal Transfer Docket, 1876-90, entry 164. 1876-1912, arr. chron. by court terms, thereunder num. by cause nos.; 1913-, arr. num. by cause nos. 1876-1912, no index; for index, 1913-, see entry 129. Hdw. and typed. 680 pp. 10 x 12 x 4. 18 vols., 1876-1912, S. stor. rm., attic; 19 vols., 1913-, cir. ct. rm.

129. CIVIL DOCKET [Index], 1913-. 1 vol.

Index to Transfer Civil Docket, entry 128, showing names of plaintiff and defendant, and cause number. Arr. alph. by names of plaintiffs and defendants. Typed. 800 pp. 10 x 12 x 5. Cir. ct. rm.

130. ISSUE DOCKET, CIRCUIT COURT, 1874-75, 1878, 1882-83, 1897-1900, 1913-14. 5 vols. (9, 14, 18, 23, 26).

1915 - in Entry & Issue Docket & Fee Book, entry 109. Record of civil causes set for trial, showing dates of filing, court term, and sheriff's return; names of plaintiffs defendant, and attorneys; nature and number of cause; and proceedings. Arr. chron. by dates of court terms, thereunder num. by cause nos. No index. Hdw. 200 pp. 18 x 10 x 3. S. stor. rm., attic.

#### ORDERS

131. ORDER BOOK [Civil and Criminal], 1822-. 101 vols. (A-M, M, N-S, 1-81).

Record of verdicts returned and judgments and orders of court, showing dates of filing, proceedings, court orders, and verdict; names of plaintiff and defendant; court term; cause number; nature of verdict or judgment; and court order. Also contains: Judgment Docket, 1822-51, entry 134; Transcript Record, 1852-85, entry 135; Execution Docket, Civil, 1822-52, entry 140; Affidavit and Indictment Record, 1822-86, entry 160; Recognizance Record, 1822-80, entry 161; and Partition Record, 1822-52, entry 175. Arr. chron. by dates of court orders. Indexed alph. by names of plaintiffs and defendants; for separate index, 1822-Nov. 4, 1854, see entry 132. 1822-Mar. 22, 1911, hdw.; Mar. 23, 1911-, typed. Clk. vt.

For pending civil causes, see entry 113.

132. GENERAL INDEX TO CIRCUIT COURT ORDER BOOKS, 1822-Nov. 4, 1854. 2 vols. (1, 2). Discontinued.

Index to Order Book [Civil and Criminal], entry 131, showing cause number, names of plaintiff and defendant, and volume and page reference to recording. Arr. alph. by names of plaintiffs and defendants. Hdw. 450 pp. 18 x 13 x 3½. Clk. vt.

133. ORDER BOOK, COMMON PLEAS, June 10, 1853-Oct. 1872. 11 vols.

Record of orders, judgments, and verdicts in civil and criminal causes, showing information as in entry 131. Arr. chron. by dates of court orders. Indexed alph. by names of plaintiffs and defendants. Hdw. 350 pp. 18 x 13 x 3. Clk. vt.

#### JUDGMENTS

134. JUDGMENT DOCKET, 1852-. 25 vols. (1-21; 4 vols. unlabeled). 1822-51 in Order Book [Civil and Criminal], entry 131.

Record of judgments rendered in civil and criminal causes,

showing dates of filing, transcript, assignment, and satisfaction; names of plaintiff, defendant, judgment debtor, and attorneys; number and nature of cause; and amounts of judgment, costs and fees. Arr. chron. by dates of judgments. Indexed alph. by names of judgment debtors. Hdw. 295 pp. 18 x 13 x 3. 18 vols., 1852-1907, S. stor. rm., attic; 7 vols., 1908-, clk. vt.

For transcripts of judgments rendered by justices of the peace and courts of other counties, see entry 135.

135. TRANSCRIPT RECORD, 1886-. 4 vols. (1-4). 1852-85  
in Order Book [Civil & Criminal], entry 131.

Transcripts of certified copies of judgments rendered by justices of the peace and courts of other counties, showing information as in entry 134. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs. 1886-1930, hdw.; 1931-, typed. 584 pp. 18 x 12 x 2. Clk. vt.

136. NOTES ON WHICH JUDGMENTS WERE RENDERED, 1931-. 1  
f. b.

Original notes on which court judgments have been rendered, showing dates of note and maturity; amount and interest rate of note; name of maker, payee, plaintiff, plaintiff's attorney, and judgment debtor; cause number; and volume and page reference to Judgment Docket, entry 134. No obvious arr. No index. Hdw. and typed. 7 x 4 x 9. Clk. vt.

137. TRANSCRIPTS J[ustice] P[eace], 1876-1932. 8 f. b.  
1933- in [Court Documents], entry 111.

Certified copies of judgments rendered in justices' of peace courts, showing dates of filing of complaint, trial, judgment, order of execution, and constable's return; names of plaintiff, defendant, plaintiff's attorney, judgment debtor, justice of peace, and constable; amounts of judgment, fees, and costs; and date of filing transcript. Arr. chron. by dates of filing transcripts. No index. Hdw. and typed. 7 x 4 x 9. S. stor. rm., attic.

138. CERTIFIED COPIES OF JUDGMENTS, 1931-. 1 f. b. 1876-  
1930 in [Court Documents], entry 111.

Certified copies of judgments rendered in courts of foreign counties against residents of Morgan County, and filed with clerk of circuit court for execution, showing dates of filing, judgment, and copy; names of plaintiff, defendant, judgment debtor, plaintiff's attorney, and foreign county; cause number; and amounts of judgment, fees, and costs. Arr. chron. by dates of filing. Typed. 7 x 4 x 9. Clk. vt.

139. JUDGMENT DOCKET, COMMON PLEAS, 1853-78. 4 vols. Record of judgments rendered in civil and criminal causes, showing information as entry 134. Arr. chron. by dates of judgments. Indexed alph. by names of plaintiffs. Hdw. 350 pp. 18 x 13 x 3. S. stor. rm., attic.

EXECUTIONS (see also entries 202, 203)

140. EXECUTION DOCKET, CIVIL, 1853-. 23 vols. (10 vols. dated; 1-3, 3, 4, 7-14). 1822-52 in Order Book [Civil and Criminal], entry 131.

Record of writs issued for execution on judgments, showing cause number; names of plaintiff and defendant; dates of judgment, writ, and sheriff's return; location and description of property; and amounts of judgment, interest, and costs. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs and defendants. 1853-July 17, 1923, hdw.; July 18, 1923-, typed. 295 pp. 18 x 13 x 3. 18 vols., 1853-Dec. 11, 1888, June 24, 1894-Aug. 4, 1905, S. stor. rm., attic; 5 vols., Dec. 12, 1888-June 23, 1894, Aug. 5, 1905-, clk. vt.

For other execution records, see entry 145; for original writs of execution, see entry 141.

141. EXECUTIONS AND ORDERS FOR SALES, 1876-. 15 f. b. Original writs of executions served and returned by sheriff, showing information as in entry 140. Arr. chron. by dates of writs. No index. Hdw. and typed. 7 x 4 x 9. 11 f. b., 1876-1928, S. stor. rm., attic; 4 f. b., 1929-, clk. vt.

142. FEE BILLS, 1876-. 45 f. b.

Original writs of execution issued to satisfy unpaid court costs and fees, showing cause number; date of writ; names of plaintiff, defendant, and judgment debtor; itemized statement of fees and costs; and volume and page reference to Execution Docket, Civil, entry 140, and Fee Book, Civil, entry 153. Arr. chron. by dates of writs. No index. Hdw. and typed. 35 f. b., 1876-1909, S. stor. rm., attic; 10 f. b., 1910-, clk. vt.

143. PRAECIPE BOOK, EXECUTIONS, 1888-. 3 vols.

Record of orders issued by attorneys or plaintiffs to clerk to issue writs of execution of court decrees, showing dates of order, court term, and judgment; names of plaintiff, defendant, judgment debtor, and attorney; and amount of judgment. Arr. chron. by dates of order. No index. Hdw., 17 x 11 x 1. 2 vols., 1888-1930, S. stor. rm., attic; 1 vol., 1931-, clk. vt.

## 144. PRAECIPE FOR TRANSCRIPT, 1914-. 2 vols.

Record of orders issued by attorneys or plaintiffs to clerk to transcribe proceedings in circuit court causes, showing dates of order, judgment, and court term; cause number; and names of plaintiff, defendant, appellee, appellant, appellee's attorney, and appeal court. Arr. chron. by dates of orders. No index. Typed. 100 pp. 18 x 10 x 1. 1 vol., 1914-30, S. stor. rm., attic; 1 vol., 1931-, clk. off.

## 145. EXECUTION DOCKET, COMMON PLEAS, 1853-68. 6 vols. (1-6).

Record of writs issued for execution of judgments rendered in common pleas court, showing information as in entry 140. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs. Hdw. 580 pp. 18 x 13 x 3½. S. stor. rm., attic.

## 146. LIS PENDENS, SUITS, 1877-. 2 vols. (1, 2).

Record of notices of complaints filed against owners of real estate that may be subject to levy for satisfaction of judgment, showing dates of notice, filing, and recording; nature and number of cause; names of plaintiff, defendant, plaintiff's attorney, and court; location and description of real estate; and date and nature of satisfaction. Arr. chron. by dates of recording. Indexed alph. by names of plaintiffs and defendants. Hdw. 600 pp. 18 x 12 x 3½. Clk. vt.

## 147. LIS PENDENS, NOTICES, 1877-. 1 vol. (1).

Record of notices of levy or attachments on real estate, showing dates of notice and recording; names of plaintiff, defendant, attorneys, and court; cause number; location and description of real estate; and date and nature of satisfaction. Arr. chron. by dates of recording. Indexed alph. by names of plaintiffs and defendants. Hdw. 600 pp. 18 x 12 x 3½. Clk. vt.

## 148. LIS PENDENS, SHERIFF'S CERTIFICATES OF SALE, 1881-. 3 vols. (3-5).

Record of sheriff's certificates of sale of real property to satisfy judgments, showing dates of judgment, court order, and sale; names of plaintiff, defendant, and purchaser; cause number; amounts of judgment, interest, costs, and sale; location and description of property; and period and conditions of redemption. Arr. chron. by dates of sales. Indexed alph. by names of plaintiffs and defendants. Hdw. 588 pp. 18 x 12 x 3½. Clk. vt.

For sheriff's deed record, see entry 74.

## 149. LIS PENDENS, REDEMPTION, 1877-. 1 vol. (4).

Record of certificates of redemption of real property sold to satisfy judgments, showing cause number; dates of judgment, sale, redemption, and recording; names of plaintiff, defendant, and redemptioner; amounts of judgment and redemption; location and description of property; and volume and page reference to Lis Pendens, Sheriff's Certificates of Sale, entry 148. Also contains: Redemption Record, Statements and Affidavits, May 12, 1885-, entry 150. Arr. chron. by dates of recording. Indexed alph. by names of plaintiffs and defendants. Hdw. 588 pp. 18 x 13 x 3½. Clk. vt.

## 150. REDEMPTION RECORD, STATEMENTS AND AFFIDAVITS, Aug. 29, 1879-May 11, 1885. 1 vol. (1). May 12, 1885- in Lis Pendens, Redemption, entry 149.

Record of statements and affidavits by redemptioners other than original owners of real properties sold to satisfy judgments, showing cause number; dates of statement and affidavit; names of plaintiff, defendant, affiant, and redemptioner; location and description of property; and volume and page reference to Execution Docket, Civil, entry 140. Arr. chron. by dates of statements and affidavits. Indexed alph. by names of defendants. Hdw. 588 pp. 18 x 13 x 3½. S. stor. rm., attic.

## COMPLETE TRANSCRIPTS

## 151. COMPLETE RECORD, 1822-1916. 19 vols. (A-J; 1 vol. unlabeled; 2, 3; 2 vols. unlabeled; 1-4). Discontinued.

Complete transcripts of actions and proceedings in civil, criminal, and probate causes, including:

- i. Civil causes, showing date of filing; date, number, and nature of cause; names of plaintiff, defendant, and attorneys; location and description of property; and disposition. 1822-67, indexed alph. by names of plaintiffs; 1868-1916, indexed alph. by names of plaintiffs and defendants.
- ii. Criminal causes, 1822-67, shewing dates of filing, trial, and disposition; cause number; name and age of defendant; nature of offense; and names of judge, jurors, witnesses, and attorneys. Indexed alph. by names of defendants.
- iii. Probate causes, 1833-58, showing dates of filing and action; cause number; names of estate, heirs, administrator or executor, and guardian and wards;

nature of action and settlement; amounts of bequests, inventory of estate, and bills of sale of personal property; and location and description of real estate. Indexed alph. by names of estates, administrators, executors, and guardians. Arr. chron. by dates of filing. For index, 1822-Aug. 18, 1848, see entry 152. 1822-1914, hdw.; 1915-16, typed. 584 pp. 18 x 13 x 3. Clk. vt.

152. GENERAL INDEX TO COMPLETE RECORDS, 1822-Aug. 18, 1848. 1 vol. (1).

Index to Complete Record, entry 151, including:

- i. Civil and criminal causes, paragraph i and iii, showing cause number; names of plaintiff, and defendant, estate, and guardianship; and volume and page reference to recording. Arr. alph. by names of plaintiffs and defendants.
- ii. Probate causes, 1833-Aug. 18, 1848, paragraph iii, showing cause number, names of estate and guardianship, and volume and page reference to recording. Arr. alph. by names of estates and guardianships.

Hdw. 640 pp. 18 x 13 x 3½. Clk. vt.

#### FEE AND CASH RECORDS

153. FEE BOOK, CIVIL, 1865-1912. 22 vols. (1-22). 1913-in Entry & Issue Docket & Fee Book, entry 109.

Record of fees and costs assessed, showing nature and number of cause; names of plaintiff, defendant, payer, and payee; and date and amount of collection. Also contains: Criminal fees in State Fee Book, 1865-93, entry 156. Arr. num. by cause nos. Indexed alph. by names of payers. Hdw. 582 pp. 18 x 12 x 3½. 17 vols., 1865-Sept. 11, 1906, S. stor. rm., attic; 5 vols., Sept. 12, 1906-12, clk. vt.

154. TRANSCRIPT FEE BOOK, 1887-. 2 vols. (1, 2).

Record of fees assessed for execution of judgments rendered in other courts, showing dates of judgment, transfer, and recording; names of plaintiff, defendant, foreign court, and judgment debtor; and amount of fees and costs. Arr. alph. by names of plaintiffs. No index. Hdw. 200 pp. 18 x 10 x 2. Clk. vt.

155. SUPPORT DOCKET, 1923-. 2 vols. (1, 2).

Record of receipts and disbursements for support and alimony, showing dates of court order, receipts, and disbursements; title and number of cause; amounts of receipts and disbursements;

names of payer and payee; and volume and page reference to Judgment Docket, entry 134. Arr. chron. by dates of court orders. Indexed alph. by names of payers. Hdw. 270 pp. 16 x 11 x 2. Clk. off.

#### CRIMINAL CAUSES

(See also entries 112, 131-135, 137, 139, 151, 152)

#### FILING OF ACTIONS

156. STATE FEE BOOK, 1894-. 9 vols. (4, 5, 8-9). Title varies: Entry Docket, State Cases, 1894-1917, 2 vols. 1865-93 in Fee Book, Civil, entry 153. Record of filing of actions and fees assessed in criminal causes, showing cause number, date and nature of indictment or affidavit, name of defendant, itemized list of fees, and date of payment. 1894-1917, arr. num. by cause nos.; 1918-, arr. chron. by dates of indictments and affidavits. 1894-1917, no index; 1918-, indexed alph. by names of defendants; for separate index, 1930-, see entry 112. Hdw. 266 pp. 16 x 12 x 2. 2 vols., 1894-Mar. 12, 1912, 1918-22, S. stor. rm., attic; 7 vols., Mar. 12, 1913-17, 1923-, clk. vt.

#### ORIGINAL DOCUMENTS

157. STATE, 1938-. 3 f. d. (labeled by contained letters of alphabet).

Original documents filed in pending criminal causes, including affidavits, indictments, warrants, writs, subpoenas, answers, denials, and recognizance bonds, showing dates of document and filing, nature and number of cause, and names of defendant and attorneys. Arr. alph. by names of defendants. No index. Hdw. and typed. 10 x 4 x 14. Clk. off.

158. STATE PAPERS, 1905-28. 6 f. b. 1876-1904, 1929- in [Court Documents], entry 111.

Original documents filed in criminal causes, including affidavits, indictments, warrants, answers, denials, writs, subpoenas, verdicts, and orders for commitment, showing date of filing; cause number; names of defendant, witnesses, attorneys, jurors, and penal institution; and dates of instrument and sheriff's return. Also contains: Instructions to Juries, 1905-12, 1920-28, entry 159; and Recognizance Bonds, 1905-11, entry 162. Arr. chron. by dates of documents. No index. Hdw. and typed. 7 x 4 x 9. S. stor. rm., attic.

159. INSTRUCTIONS TO JURIES, 1913-1919. 1 f. b. 1876-1904, 1929- in [Court Documents], entry 111; 1905-12, 1920-28 in State Papers, entry 158.

Judge's instructions to jurors in criminal causes, showing date and nature of instructions, name of defendant, court term, nature of charge, and date of filing. Arr. chron. by dates of instructions. No index. Hdw. and typed. 7 x 4 x 9. S. stor. rm., attic.

#### AFFIDAVITS AND INDICTMENTS

160. AFFIDAVIT & INDICTMENT RECORD, 1887-. 8 vols. (1-8). 1822-86 in Order Book [Civil and Criminal], entry 181.

Record of affidavits and grand jury indictments, showing dates of affidavit or indictment, filing, and recording; date and nature of alleged offense; number and nature of indictment; and names of defendant and witnesses. Arr. chron. by dates of affidavits or indictments. Indexed alph. by names of defendants. Hdw. 585 pp. 17 x 11 x 2½. 6 vols., 1887-1930, S. stor. rm., attic; 2 vols., 1931-, clk. vt.

#### BONDS

161. RECOGNIZANCE RECORD, 1881-. 3 vols. (1-3). 1822-80 in Order Book [Civil and Criminal], entry 181.

Record of bonds posted to assure appearance of defendants in court, showing dates of bond, filing, and approval; names of plaintiff, defendant, and sureties; amount and conditions of bond; cause number; and nature of charge. Arr. chron. by dates of filing. Indexed alph. by names of sureties. Hdw. 430 pp. 18 x 12 x 2½. 1 vol., 1881-Apr. 6, 1899, S. stor. rm., attic; 2 vols., July 12, 1899-, clk. vt.

For original recognizance bonds, see entry 162.

162. RECOGNIZANCE BONDS, 1912-. 4 f. b. 1876-1904 in [Court Documents], entry 111; 1905-11 in State Papers, entry 158.

Original bonds posted by defendants in criminal causes, showing information as in entry 161. Arr. chron. by dates of bonds. No index. Hdw. 7 x 4 x 9. 3 f. b., 1912-28, S. stor. rm., attic; 1 f. b., 1929-, clk. vt.

#### MINUTES

163. CRIMINAL DOCKET, 1938-. 1 vol.

Record of proceedings and actions in pending criminal causes, showing dates of filing, court term, trial, and sheriff's

return; number and nature of cause; names of defendant and attorneys; and volume and page reference to Order Book [Civil and Criminal], entry 131. Arr. num. by cause nos. Indexed alph. by names of defendants. Typed. 510 pp. 8 x 10 x 3. Cir. ct. rm.

164. CRIMINAL TRANSFER DOCKET, 1891-. 9 vols. (21, 22, 24, 24; 1 vol. unlabeled; 2-5). Title varies: Court Docket, State, 1891-1912. 4 vols. 1876-90 in Transfer Civil Docket, entry 128.

Record of proceedings and actions in criminal causes, showing dates of filing, court term, trial, and proceedings; names of defendant and attorneys; nature, number, and disposition of cause; amounts of fees and cost; and volume and page reference to Order Book [Civil and Criminal], entry 131. 1891-1912, arr. chron. by dates of court terms, thereunder num. by cause nos.; 1913-, arr. num. by cause nos. 1891-1912, no index; 1913-, indexed alph. by names of defendants. Hdw. and typed. 235 pp. 8 x 10 x 1½. 4 vols., 1891-1912, S. stor. rm., attic; 5 vols., 1913-, cir. ct. rm.

#### PROBATE CAUSES

(See also entries 111, 112, 151, 152)

#### FILING OF ACTIONS

165. ESTATE ENTRY CLAIM & ALLOWANCE DOCKET & FEE BOOK, 1913-. 7 vols. (1-7).

Record of filing of actions, claims and allowances, and fees assessed in estate causes, showing cause number; dates of decedent's death and letter of administration; names of decedent, administrator or executor, sureties, and claimants; amount of administrator's or executor's bond, inventory, claim, and allowance; number and nature of claim; and amount of fees. This is a combination of two records formerly kept separately: General Entry Claim and Allowance Docket, entry 166; estate fees in Fee Book, Probate, entry 191. Arr. num. by cause nos. Indexed alph. by names of estates; for separate index, 1930-, see entry 112. Hdw. 292 pp. 19 x 16 x 3. Clk. vt.

166. GENERAL ENTRY CLAIM AND ALLOWANCE DOCKET, 1876-1912. 6 vols. (1, 1-5). Title varies: Appearance Docket, Probate, 1876-May 1882. 1 vol. 1913- in Estate Entry Claim & Allowance Docket & Fee Book, entry 165.

Record of filing of actions and allowance of claims in estate

causes, showing dates of filing, claim, allowance, administrator's or executor's report, and settlement; cause and claim numbers; names of estate, administrator or executor, and claimant; and amounts of claim and allowance. Arr. num. by cause nos. 1876-May 1882, indexed alph. by names of administrators or executors; June 1882-1912, indexed alph. by names of estates. Hdw. 250 pp. 18 x 13 x 12. S. stor. rm., attic.

167. GUARDIANSHIP DOCKET AND FEE BOOK, 1913-. 5 vols. (1-5).

Record of actions filed and fees assessed in guardianship causes, showing cause number; dates of filing and appointment of guardian; names of ward, guardian, and sureties; amount of guardian's bond; and nature and amount of fees. This is a combination of two records formerly kept separately: Guardianship Docket, entry 168; guardianship fees in Fee Book, Probate, entry 191. Arr. num. by cause nos. Indexed alph. by names of wards; for separate index, 1930-, see entry 112. Hdw. 295 pp. 18 x 13 x 3. Clk. vt.

168. GUARDIANSHIP DOCKET, 1887-1912. 2 vols. (1, 2).  
1913- in Guardianship Docket and Fee Book, entry 167.

Record of filing of actions in guardianship causes, showing dates of filing and appointment of guardian; cause number; names of ward, guardian, and sureties; and amount of guardian's bond. Arr. num. by cause nos. Indexed alph. by names of wards. Hdw. 18 x 13 x 3. S. stor. rm., attic.

#### ORIGINAL DOCUMENTS

169. GUARDIANSHIPS, 1905-. 2 f. d. (labeled by contained letters of alphabet).

Original documents in guardianship causes pending, including petition for appointment of guardian, letters of appointment, guardian's bonds, inventory of property, claims, receipts for allowances and expenses, and reports, showing dates of filing and appointment of guardian; names of wards, guardian, and sureties; and volume and page reference to Probate Order Book, entry 186, and Fee Book, Probate, entry 191. Arr. alph. by names of guardianships. No index. Hdw. and typed. 12 x 15 x 26. Clk. vt.

170. ESTATES, 1935-. 6 f. d. (labeled by contained letters of alphabet).

Original documents in estate causes pending, including letters

of administration, administrator's bonds, inventory of property, claims, receipts for allowance and expenses, petitions to sell property, reports of sales and partial reports, and copy of will, showing dates of filing and appointment of administrator or executor, names of estate and administrator or executor, and volume and page reference to Probate Order Book, entry 186, and Fee Book, Probate, entry 191. Arr. alph. by names of estates. No index. Typed. 8 x 6 x 24. Clk. vt.

## BONDS

171. ADMINISTRATOR'S BOND RECORD, PROBATE, Oct. 1852-Nov. 5, 1872, 1876-. 7 vols. (1 vol. unlabeled; 1-6). Title varies: Administrator's Bonds, Oct. 1852-Nov. 5, 1872, 1 vol. 1822-44 in Probate Order Book, entry 186; 1845-Sept. 1852 in [Probate Record Book], entry 177.

Record of administrator's bonds, oaths, and letters, showing dates of filing, bond, oath, and letters; names of estate, administrator, and sureties; and amount and conditions of bond. Also contains: Executors' Bond, Probate, Oct. 1852-Nov. 5, 1872, entry 172. Arr. chron. by dates of bonds. Indexed alph. by names of administrators. Hdw. 586 pp. 18 x 12 x 2½. Clk. vt.

172. EXECUTORS' BOND, PROBATE, 1876-. 2 vols. (1, 2). 1822-44 in Probate Order Book, entry 186; 1845-Sept. 1852 in [Probate Record Book], entry 177; Oct. 1852-Nov. 5, 1872 in Administrator's Bond Record, Probate, entry 171.

Record of executors' bonds, oaths, and letters, showing dates of filing, bond, oaths, and letters; names of estate, executor, and sureties; and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of executors. Hdw. 570 pp. 18 x 12 x 3. Clk. vt.

173. GUARDIANS' BONDS, PROBATE, June 10, 1853-Oct. 1872, 1876-. 5 vols. (1 vol. unlabeled; 1-4). 1822-June 9, 1853 in Probate Order Book, entry 186.

Record of guardian's bonds, oaths, and letters, showing dates of filing, bond, oaths, and letters; names of guardianship, guardian, and sureties; and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of guardians. Hdw. 588 pp. 18 x 12 x 2½. Clk. vt.

174. ADMINISTRATORS', EXECUTORS' & GUARDIANS' BONDS TO SELL REAL ESTATE. 1876-1919. 1 vol. Discontinued. 1822-75 in Probate Order Book, entry 186.

Record of bonds posted by administrators, executors, and guardians to sell real estate, showing dates of bond, filing, and approval; names of estate or guardianship, administrator or executor, guardian, and sureties; and amount and conditions of bond. Arr. alph. by names of sureties. No index. Hdw. 575 pp. 18 x 12 x 3. S. stor. rm., attic.

#### PARTITIONS AND WILLS

175. PARTITION RECORD, 1853-. 3 vols. (1, 2; 1 vol. unlabeled). 1822-52 in Order Book [Civil and Criminal], entry 181.

Record of proceedings to partition real estate in estate causes, showing dates of petition and filing; names of estate, administrator, and heirs; location, description, and appraised valuation of property; cause number; and court order. Arr. chron. by dates of petitions. Indexed alph. by names of estates. Hdw. and typed. 500 pp. 18 x 12 x 3. Clk. vt.

For other partition records, see entry 75.

176. WILL RECORD, 1865-. 6 vols. (1-6). 1822-44, 1853-64 in Probate Order Book, entry 186; 1845-Sept. 1852 in [Probate Record Book], entry 177.

Transcripts of wills filed for probate, showing dates of will and filing; names of testator, heirs or beneficiaries, witnesses, and executor or administrator; and amounts, nature, and conditions of bequests. Arr. chron. by dates of filing. Indexed alph. by names of testators. 1865-Nov. 27, 1912, hdw.; Nov. 28, 1912-, typed. 578 pp. 18 x 12 x 2. Clk. vt.

For other will records see entries 102, 178.

177. [PROBATE RECORD BOOK], 1845-Sept. 1852. 1 vol.

Contains:

- i. Administrator's Bond Record, Probate, entry 171.
- ii. Executor's Bond, Probate, entry 172.
- iii. Will Record, entry 176.

Arr. chron. by dates of filing. No index. Hdw. 250 pp. 18 x 12 x 2. Clk. vt.

178. CLERK'S REPORT OF WILLS PROBATED, VACATION, June 3, 1892-Feb. 3, 1894. 1 vol.

Record of wills filed for probate during vacation of court, showing date of filing, names of testator and subscribing witness, and clerk's attest of filing. Indexed alph. by names of testators. Hdw. 428 pp. 18 x 12 x 2. S. stor. rm., attic.

For other will records, see entries 102, 176.

## INVENTORY AND SALE BILLS

179. INVENTORY RECORD, 1876-1910. 7 vols. (1-7). Discontinued. 1822-75 in Probate Order Book, entry 186.

Record of inventories of real and personal property in estate causes, showing dates of inventory and filing; names of decedent, administrator or executor, and appraiser; cause number; and description and valuation of property. Arr. chron. by dates of filing. Indexed alph. by names of decedents. Hdw. 590 pp. 18 x 12 x 2½. S. stor. rm., attic.

180. SALE BILL RECORD, July 29, 1865-Oct. 3, 1914. 4 vols. (1 vol. unlabeled; 1-3). Discontinued. 1822-July 28, 1865 in Probate Order Book, entry 186.

Record of sale of personal property in estate causes, showing date of sale; names of estate, administrator or executor, and purchaser; inventory and cause numbers; and amount and terms of sale. Arr. chron. by dates of sales. Indexed alph. by names of decedents. Hdw. 589 pp. 18 x 12 x 3. 3 vols., July 29, 1865-1890, Mar. 1906-Oct. 3, 1914, S. stor. rm., attic; 1 vol., 1891-Feb. 1906, clk. off.

## MINUTES

181. TRANSFER PROBATE DOCKET, 1871-. 20 vols. (1-6, 6, 7-12; 3 vols. unlabeled; 2-5). Title varies: Court Docket, Probate, 1871-1912. 15 vols.

Record of proceedings and actions in disposed of estate causes, showing dates of filing, court term, action, and sheriff's return; nature, number, and disposition of cause; names of estate, administrator or executor, sureties, and attorneys; amount of bond; and volume and page reference to Probate Order Book, entry 186. 1871-1912, arr. num. by cause nos.; 1913-, arr. chron. by dates of actions. 1871-1912, no index; 1913-, indexed alph. by names of estates. Hdw. and typed. 680 pp. 10 x 12 x 4. 15 vols., 1871-1912, S. stor. rm., attic; 5 vols., 1913-, cir. ct. rm.

182. GUARDIANSHIP TRANSFER DOCKET, 1895-. 1 vol.

Record of actions and proceedings in disposed of guardianship causes, showing dates of filing and action, names and addresses of guardian and sureties, names of wards and attorneys, amount of bond, number and disposition of cause, and volume and page reference to Probate Order Book, entry 186. Arr. chron. by dates of actions. Indexed alph. by names of wards. Typed. 400 pp. 9 x 12 x 4. Cir. ct. rm.

## 183. GUARDIANSHIP DOCKET, 1905-. 1 vol.

Record of actions and proceedings in guardianship causes pending, showing dates of filing and proceedings, names and addresses of guardian and sureties, names of wards and attorneys, nature and number of cause, and volume and page reference to Probate Order Book, entry 186. Arr. chron. by dates of filing. Indexed alph. by names of wards. Typed. 390 pp. 9 x 12 x 2½. Cir. ct. rm.

## 184. PROBATE DOCKET, 1935-. 1 vol.

Record of proceedings and actions in estate causes pending, showing dates of filing, court term, trial, and sheriff's returns; nature and number of cause; names of estate, administrator or executor, sureties, and attorneys; amount of bond; and volume and page reference to Probate Order Book, entry 186. Arr. chron. by dates of actions. Indexed alph. by names of estates. Typed. 510 pp. 10 x 12 x 3. Cir. ct. rm.

185. ISSUE DOCKET, PROBATE, 1880-89, 1892-95. 5 vols.  
(1-4, 6). Discontinued.

Record of issues filed in probate causes, showing cause number; names of plaintiff, defendant, attorneys, and witnesses; date filed; nature of action; and volume and page reference to Fee Book, Probate, entry 191. Arr. num. by cause nos. No index. Hdw. 250 pp. 18 x 12 x 2½. S. stor. rm., attic.

## ORDERS

## 186. PROBATE ORDER BOOK, 1822-. 50 vols. (15 vols. unlabeled; A-Z, AA-HH, 11).

Record of actions and proceedings in estate and guardianship causes, showing cause number; dates of filing, proceedings, and court order; names of estate or guardianship, administrator or executor, guardian, ward, sureties, and attorneys; and disposition of cause. Also contains: Administrator's Bond Record, Probate, 1822-44, entry 171; Executors' Bond, Probate, 1822-44, entry 172; Guardians' Bonds, Probate, 1822-June 9, 1853, entry 173; Administrators', Executors' and Guardians' Bonds to Sell Real Estate, 1822-75, entry 174; Will Record, 1822-44, 1853-64, entry 176; Inventory Record, 1822-75, entry 179; and Sale Bill Record, 1822-July 28, 1865, entry 180. Arr. chron. by dates of court orders. Indexed alph. by names of estates and guardianships. 1822-1914, hdw.; 1915-, typed. Clk. vt.

187. INHERITANCE & TRANSFER TAX RECORD, 1913-. 2 vols.  
(1 vol. unlabeled; 1).

Record of orders determining value of estates and amount of

tax, showing dates of appraisement, inventory, filing order, and death of decedent; names of estate, appraisers, heirs, and administrator or executor; description, location, and valuation of property; amount of deduction for indebtedness; and rate and amount of tax. Arr. alph. by names of estates. No index. Hdw. 240 pp. 18 x 24 x 3. 1 vol., 1913-Feb. 15, 1930, S. stor. rm., attic; 1 vol., Feb. 16, 1930-, clk. vt.

For other inheritance tax records see entries 188, 189, 228, 283.

188. INHERITANCE TAX SCHEDULES, 1916-. 9 f. b.  
Schedules of all property and affidavits of executors or administrators, trustees or heirs for inheritance tax appraisements, showing dates of schedule, decedent's death, will admitted to probate, and letters of administration granted; names of decedent and affiant; location, description, and assessed valuation of real property; par and market valuation of all intangibles; market valuation of chattels; interest in business or co-partnerships, trusts, and all other property; recapitulation of all taxables; itemized list of claims, debts, and expenses; and amount of deduction claimed. Arr. alph. by names of decedents. No index. Typed. 9 x 7 x 4. 4 f. b., 1916-28, S. stor. rm., attic; 5 f. b., 1929-, clk. vt.

For other inheritance tax records, see entries 187, 189, 228, 283.

189. INHERITANCE TAX [Court Orders], 1920-. 1 f. d., 1 bdl.

Original orders determining value of estates and amount of tax, showing dates of order, decedent's death, and filing of schedule; names of estate, heirs, administrator or executor, and appraiser; location and description of property; net value of estate; and rate and amount of tax. Arr. chron. by dates of orders. No index. Typed. F. d., 7 x 4 x 9; bdl., 9 x 11 x 2. 1 bdl., 1920-22, S. stor. rm., attic; f. d., 1923-, clk. off.

For other inheritance tax records, see entries 187, 188, 228, 283.

#### COMPLETE TRANSCRIPTS

190. COMPLETE RECORD, COMMON PLEAS, Feb. 10, 1853-72.  
3 vols.

Complete record of estate and guardianship causes, showing information as in entry 151iii. Arr. chron. by dates of trials. Indexed alph. by names of administrators, executors, and guardians. Hdw. 350 pp. 18 x 18 x 3. Clk. vt.

## FEE AND CASH RECORDS

191. FEE BOOK, PROBATE, 1863-1912. 4 vols. (B-E). Estate fees, 1913- in Estate Entry Claim & Allowance Docket & Fee Book, entry 165; guardianship fees, 1913- in Guardianship Docket and Fee Book, entry 167.

Record of fees collected in estate and guardianship causes, showing date, nature and amount of fee; cause number; and names of estate, administrator or executor, and payer. Arr. chron. by dates of collections. Indexed alph. by names of estates. Hdw. 550 pp. 18 x 12 x 2½. Clk. vt.

192. RECEIPTS OF ESTATES, 1918-. 2 vols.

Carbon copies of receipts issued to administrators or executors of estates for payment of expenses in estate causes, showing date, nature and amount of payment; name of payee; cause and receipt numbers; and volume and page reference to Estate Entry, Claim & Allowance Docket & Fee Book, entry 165. Arr. chron. by dates of receipts. No index. Hdw. 125 pp. 17 x 9 x 1. 1 vol., 1918-34, S. stor. rm., attic; 1 vol., 1935-, clk. off.

## JUVENILE CAUSES

193. JUVENILE COURT HISTORY RECORD, Oct. 12, 1939-. 1 vol.

Record of actions and proceedings in juvenile causes, showing cause number, name, age, and classification of juvenile defendant; names of witnesses; names, ages, address, moral, marital, religious, and financial status of parents or guardian; and dates of filing and disposition. Arr. num. by cause nos. No index. Hdw. 100 pp. 12 x 16 x 1. Judge's pvt. off.

## MISCELLANEOUS COURT RECORDS

194. REPLEVIN & POSSESSION, RECEIVERS, TRUSTEES, COSTS AND APPEAL AND OFFICIAL BONDS, 1876-. 6 f. b.

Original bonds filed in clerk's office, including replevin, receivers, trustees in bankruptcy, and cost and appeal bonds, showing date of bond, filing, and approval; names of principal and sureties; and amount and condition of bond. Also contains: [Official Bonds], entry 27; and Notary Bonds, 1876-1912, 1937-, entry 30. Arr. chron. by dates of bonds. No index. Hdw. 7 x 4 x 9. 5 f. b., 1876-1933, S. stor. rm., attic; 1 f. b., 1934-, clk. off.

195. CHANGE OF VENUE DOCKET, 1891-. 5 vols. (1-5). Record of actions, proceedings, and costs in venued causes, showing dates of filing, trial, and disposition; names of plaintiff, defendant, jurors, and county; nature and number of cause; itemized list of fees and costs; and volume and page reference to Order Book [Civil and Criminal], entry 181. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs and defendants. Hdw. 588 pp. 18 x 13 x 3. 1 vol., 1891-Aug. 5, 1910, S. stor. rm., attic; 4 vols., Aug. 6, 1910-, clk. vt.

For other change of venue records, see entries 196, 276, 277.

196. RECEIPTS OF CHANGE OF VENUE, 1891-1934 in [Court Documents], entry 111.

Receipts issued for payment of costs in causes venued from adjoining counties, showing date of receipt and filing, cause number, names of plaintiff and defendant, and amount of costs. Arr. num. by cause nos. No index. Hdw. and typed. 8 x 5 x 12. Clk. vt.

For other change of venue records, see entries 195, 276, 277.

197. SUBPOENAS, 1911-. 15 vols.

Stubs of subpoenas issued for witnesses' appearance in criminal and civil causes, showing dates of issue, service, and appearance; names of plaintiff, defendant, and attorney; name and address of witness; and subpoena number. Arr. num. by subpoena nos. No index. 15 x 11 x 2. Hdw. 5 vols., 1911-21, S. stor. rm., attic; 10 vols., 1922-, clk. vt.

198. SUMMONS, 1921-. 6 vols.

Stubs of summonses served on persons to answer complaints in civil causes, showing dates of summons, service, and appearance; names of plaintiff, defendant, and attorneys; amount of fees; and cause number. Arr. chron. by dates of summonses. No index. Hdw. 15 x 11 x 2. 4 vols., 1921-34, S. stor. rm., attic; 2 vols., 1935-, clk. off.

## VI. SHERIFF

### LEGAL STATUS

The office of sheriff was created by the constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Morgan County since its organization in 1822. The

sheriff is elected for a 2-year term by the voters of the county. No person is eligible to hold the office more than 4 years in any 6-year period.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> The sheriff must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>4</sup> must reside within the county after his election, must not hold any other lucrative office,<sup>5</sup> and must not practice law.<sup>6</sup> He must post bond in an amount between \$5,000 and \$15,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.<sup>7</sup> The sheriff must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>8</sup>

The sheriff receives a regular salary of \$1,840 per year.<sup>9</sup> He is permitted to retain, as compensation for himself, the fees charged for his services in the execution of process issued by courts outside of the county and in the collection of gross income taxes as directed by the state department of treasury. If the sheriff furnishes and maintains the vehicles used in the discharge of his official duties, he is entitled

<sup>1</sup> Const. 1816, art. 4, sec. 25. Const. 1851, art. 2, sec. 11; art. 6, sec. 2. Acts 1816-17, ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13. Acts 1821-22, ch. 24, sec. 1. Rev. Laws 1824, ch. 35, sec. 13; ch. 59, sec. 1; ch. 100, secs. 5, 6, 8. 2 Rev. Stat. 1852; Burns 49-2801; Baldwin 5493. *Gemmer v. State ex rel. Stephens* (1904), 163 Ind. 150, 71 N. E. 478.

<sup>2</sup> Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 13, secs. 1, 8. Rev. Laws 1824, ch. 100, secs. 1, 2, 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5.

<sup>4</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

<sup>5</sup> Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Laws 1824, ch. 86, sec. 18.

<sup>6</sup> Rev. Laws 1824, ch. 8, sec. 6. Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

<sup>7</sup> Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1821-22, ch. 46, secs. 1, 2. Rev. Laws 1824, ch. 69, sec. 4; ch. 100, secs. 2, 8. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

<sup>8</sup> Const. 1851, art. 15, sec. 4. Rev. Laws 1824, ch. 100, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057. Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493. *State ex rel. Chapman v. Lines* (1853), 4 Ind. 351.

<sup>9</sup> Acts 1816-17, ch. 19, sec. 16. Acts 1817-18 (general), ch. 42, sec. 23. Acts 1933; Burns 49-1004; Baldwin 7534.

to an allowance of \$400 per year to cover the cost of such maintenance, or is entitled, in lieu thereof, to a mileage allowance at the rate of 6 cents per mile for each mile necessarily traveled in serving process, transporting persons to penal and benevolent institutions, and going for and returning fugitives. If the county owns and maintains the vehicles used by him, he is not entitled to an allowance for mileage or for maintenance of the vehicles.<sup>10</sup> For each meal served to the prisoners in his charge, the sheriff receives an allowance not exceeding 20 cents, as determined annually by the state examiner.<sup>11</sup>

For sufficient legal grounds the sheriff may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>12</sup> If the sheriff is convicted of a felony, or of permitting the lynching of any prisoner in his custody, the judgment of conviction must declare his office vacant.<sup>13</sup>

Any vacancy in the office of sheriff is filled through appointment by the board of commissioners. The coroner performs the duties of sheriff until a new appointment is made. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.<sup>14</sup>

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<sup>10</sup> Rev. Laws 1824, ch. 41, sec. 12. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1933, 1937; Burns, 1939 suppl., 49-1008; Baldwin, 1937 suppl., 7538. Acts 1932 (Spec. Sess.); Burns 49-1315, 49-1316; Baldwin 7573, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1. Acts 1933, 1937; Burns, 1939 suppl., 64-2613 (a); Baldwin, 1937 suppl., 15993 (a). *McFarlan v. State* (1897), 149 Ind. 149; *Board of County Comrs. v. Baker* (1939), —Ind.—, 19 N. E. (2d) 250. *Opinions of the Attorney General of Indiana*, 1933, p. 532; 1934, p. 367; 1938, p. 303; 1939, pp. 171, 258, 328.

<sup>11</sup> Acts 1817-18 (general), ch. 61, sec. 6. Rev. Laws 1824, ch. 77, sec. 7. Acts 1935; Burns, 1939 suppl., 49-1323; Baldwin, 1935 suppl., 13455-1. *Opinions of the Attorney General of Indiana*, 1934, p. 107.

<sup>12</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. Laws 1824, ch. 29, sec. 34. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>13</sup> Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>14</sup> Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, secs. 7, 9. Acts 1820-21, ch. 19, sec. 1. Rev. Laws 1824, ch. 100, secs. 7-9, 11. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437. *Akers v. State ex rel. Kent* (1856), 8 Ind. 484; *State ex rel. Culbert v. Linkhauer* (1895), 142 Ind. 94, 41 N. E. 325. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

The sheriff may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month. The sheriff may require the deputy to give bond. The deputy must take the oath required of the sheriff, may perform all the official duties of the sheriff, and is subject to the same regulations and penalties. The sheriff may remove such deputy and assistants at any time, and is responsible for their official acts.<sup>15</sup>

#### FUNCTIONS AND RECORDS

The sheriff is a conservator of the peace within the county. He is required to arrest without process all persons who within his view commit any criminal offense under the state laws, and detain them in custody during investigation of the cause of the arrest; suppress all breaches of the peace, having authority to call to his aid the power of the county; pursue and commit to jail all felons; maintain the jail and take care of the prisoners confined therein (persons held for investigation, defendants awaiting trial, and convicts); execute all process, orders, and warrants directed by him to legal authority; and to preserve and maintain order in all courts in the county, except those of justices of the peace.<sup>16</sup>

The sheriff makes arrests on warrants issued on indictments and affidavits, and detains the arrested persons in jail or releases them on bail as provided by law; serves

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<sup>15</sup> Acts 1818-19, ch. 17, sec. 3. Rev. Laws 1824, ch. 100, sec. 10. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502, 49-503; Baldwin 13109, 13110. Acts 1921; Burns 49-504; Baldwin 13111. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Boaz v. Tate (1873)*, 43 Ind. 60. *Opinions of the Attorney General of Indiana, 1934*, p. 256; *1937*, p. 324.

<sup>16</sup> Acts 1816-17, ch. 2, secs. 7, 10; ch. 4, secs. 6, 7, 10, 31; ch. 5, sec. 51; ch. 6, sec. 1; ch. 10, sec. 15; ch. 24, sec. 3; ch. 32, sec. 9. Acts 1817-18 (general), ch. 20, sec. 1; ch. 32, sec. 6; ch. 48, secs. 3, 4; ch. 62, secs. 2-4; ch. 63, sec. 2; ch. 66, sec. 1. Acts 1817-18 (special), ch. 2, sec. 7. Acts 1820-21, ch. 5, sec. 1; ch. 13, secs. 1, 2. Acts 1821-22, ch. 4, secs. 4-6. Rev. Laws 1824, ch. 1, sec. 6; ch. 5, secs. 2, 10; ch. 24, secs. 6, 8, 10; ch. 34, sec. 12; ch. 56, secs. 3, 5; ch. 73, secs. 2, 4, 27; ch. 74, secs. 8, 10, 41; ch. 100, sec. 10, ch. 117, secs. 1-3. Acts 1881 (Spec. Sess.); Burns 2-802, 3-522, 3-1910 to 3-1913, 3-2705; Baldwin 83, 791, 1026 to 1029, 1202. Acts 1905; Burns 10-3707; Baldwin 2654. Acts 1903; Burns 35-411; Baldwin 8541. 2 Rev. Stat. 1852; Burns 49-2802, 49-2803; Baldwin 5494, 5495. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700. Acts 1919; Burns 64-1303; Baldwin 15707.

summonses in cases of misdemeanors;<sup>17</sup> deputizes bystanders to aid him in protecting persons from being lynched;<sup>18</sup> calls the petit jury for civil and criminal cases as prescribed by law or directed by the court;<sup>19</sup> performs the duties of bailiff of the circuit court if no bailiff is appointed by the judge of that court;<sup>20</sup> transports persons committed to the charitable, correctional, and penal institutions operated by the state;<sup>21</sup> seizes and sells property as directed by any circuit court or superior court, and executes conveyances to the purchasers;<sup>22</sup> executes the process of the Supreme Court of Indiana, the Appellate Court of Indiana,<sup>23</sup> the state board of tax commissioners,<sup>24</sup> the state department of treasury (collection of gross income tax),<sup>25</sup> the state unemployment compensation board (collection of assessments against employers),<sup>26</sup> the state industrial board,<sup>27</sup> the county board

<sup>17</sup> Acts 1816-17, ch. 2, sec. 7; ch. 4, secs. 7, 10. Acts 1817-18 (general), ch. 20, sec. 1; ch. 54, sec. 3; ch. 64, sec. 5; ch. 78, sec. 3. Acts 1818-19, ch. 1, sec. 6; ch. 7, sec. 2; ch. 10, secs. 1, 2. Acts 1819-20, ch. 25. Acts 1821-22, ch. 23, sec. 8; ch. 64, sec. 2-4. Rev. Laws 1824, ch. 23, sec. 3; ch. 29, secs. 70, 82; ch. 40, secs. 14, 17; ch. 46, secs. 1, 3; ch. 47, secs. 1-3; ch. 50, sec. 1; ch. 54, secs. 10, 11, 14; ch. 77, secs. 2, 4, 7; ch. 78, sec. 3; ch. 100, sec. 10; ch. 114, secs. 3, 4. Acts 1905, 1937; Burns , 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

<sup>18</sup> Rev. Laws 1824, ch. 100, sec. 14. Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. State *ex rel.* Maxwell v. Dudley (1903), 161 Ind. 431, 68 N. E. 899.

<sup>19</sup> Rev. Laws 1824, ch. 56, sec. 3. Acts 1881 (Spec. Sess.); Burns 2-2002; Baldwin 327. Acts 1905; Burns 9-1501; Baldwin 2246.

<sup>20</sup> Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256.

<sup>21</sup> Rev. Laws 1824, ch. 29, secs. 83, 84. Acts 1905; Burns 9-2232, 22-2013; Baldwin 2339, 4206. Acts 1927; Burns 22-1213; Baldwin 4305. Acts 1911; Burns 22-1716; Baldwin 4230. Acts 1919; Burns 22-1809; Baldwin 4264.

<sup>22</sup> Acts 1817-18 (general), ch. 61, secs. 2, 3. Acts 1819-20, ch. 56, secs. 1-3; ch. 72, secs. 10, 11. Acts 1820-21, ch. 1, secs. 3, 8; ch. 19, sec. 6. Acts 1821-22, ch. 14, sec. 1; ch. 43, sec. 4; ch. 79, sec. 2. Rev. Laws 1824, ch. 5, secs. 13, 22, 26, 28; ch. 6, sec. 4; ch. 34, secs. 2, 5, 11; ch. 39, sec. 6; ch. 40, secs. 3-5, 7-10, 12, 18, 19, 22; ch. 45, secs. 10, 14; ch. 73, sec. 22; ch. 85, secs. 5, 6; ch. 99, sec. 2; ch. 114, sec. 3. 2 Rev. Stat. 1852, ch. 8, sec. 472. Acts 1881 (Spec. Sess.); Burns 2-3601, 2-4101, 3-1819; Baldwin 574, 619, 1014. Acts 1931; Burns 3-1806; Baldwin 1008.

<sup>23</sup> Acts 1816-17, ch. 1, secs. 6, 9, 10. Rev. Laws 1824, ch. 25, secs. 6, 12; ch. 100, sec. 13. Acts 1891, Burns 4-230; Baldwin 1378. 2 Rev. Stat. 1852; Burns 49-2203; Baldwin 1339. 2 Rev. Stat. 1852, Acts 1889; Burns 49-2204; Baldwin 1340.

<sup>24</sup> Acts 1919; Burns 64-1303; Baldwin 10705.

<sup>25</sup> Acts 1933, 1937; Burns, 1939 suppl., 64-2613 (a); Baldwin, 1937 suppl., 15993(a). *Opinions of the Attorney General of Indiana, 1938*, p. 303; 1939, pp. 171, 258.

<sup>26</sup> Acts 1936 (Spec. Sess.), 1939; Burns, 1939 suppl., 52-1514(b); Baldwin, 1939 suppl., 10168-61.

<sup>27</sup> Acts 1937; Burns, 1939 suppl., 40-2217(a); Baldwin, 1937 suppl., 16515(a).

of election commissioners, and the county board of canvassers,<sup>28</sup> when officially directed to do so; attends sessions of the board of commissioners,<sup>29</sup> county council,<sup>30</sup> and board of review,<sup>31</sup> and executes the orders of those boards; issues licenses for retail sale of pistols;<sup>32</sup> makes investigations of poultry dealers, and receives weekly reports from them;<sup>33</sup> kills unlicensed dogs after June 15 each year;<sup>34</sup> assists the state board of health in the administration of laws concerning leprosy;<sup>35</sup> and gives public notice of the holding of elections. In the early days of the county he performed various duties concerning elections.<sup>36</sup> Before 1824 he served as county tax collector.<sup>37</sup>

The sheriff keeps in his office, open to public inspection, written information (furnished by the state department of public safety) as to motor vehicle operators' and chauffeurs' licenses issued, denied, suspended, revoked, and existing in the state.<sup>38</sup> Information concerning stolen motor vehicles is reported by the sheriff to the state motor vehicle commissioner.<sup>39</sup> The sheriff receives reports of deaths resulting from the operation of motor vehicles in the county (except in cities and towns), makes immediate investigations concerning such deaths, and reports the facts to the state department of public safety within 24 hours thereafter.<sup>40</sup>

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<sup>28</sup> Acts 1905; Burns 29-1408; Baldwin 7384.

<sup>29</sup> Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6; ch. 86, secs. 5, 29, 42. Rev. Stat. 1843, ch. 7, sec. 5. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

<sup>30</sup> Acts 1899; Burns 26-510; Baldwin 5374.

<sup>31</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>32</sup> Acts 1935, 1937; Burns, 1939 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the superintendent of the police. *Ibid.*

<sup>33</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803 (b); Baldwin 10487.

<sup>34</sup> Acts 1937; Burns, 1939 suppl., 16-330; Baldwin, 1937 suppl., 3811-14.

<sup>35</sup> Acts 1917; Burns 35-504; Baldwin 8546.

<sup>36</sup> Acts 1816-17, ch. 9, secs. 1, 15, 16, 19, 22; ch. 12, sec. 5; ch. 14, secs. 2, 6, 8. Acts 1817-18 (special), ch. 3, secs. 1-3. Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, secs. 1, 8; ch. 49, sec. 5; ch. 54, sec. 3; ch. 57, sec. 9; ch. 61, secs. 1-6. Rev. Laws 1824, ch. 35, secs. 15, 16, 22; ch. 36, sec. 1; ch. 37, secs. 1, 2; ch. 59, sec. 3. 1 Rev. Stat. 1852, ch. 31, sec. 2. Acts 1889, ch. 87, sec. 15. Acts 1891, ch. 94, sec. 2. Acts 1881 (Spec. Sess.); Burns 29-702, 29-1703; Baldwin 7082, 7248. Demaree v. Johnson (1897), 150 Ind. 419, 49 N. E. 1062.

<sup>37</sup> See the essay entitled "Treasurer."

<sup>38</sup> Acts 1937, 1939; Burns, 1939 suppl., 47-442; Baldwin, 1939 suppl., 11317-11.

<sup>39</sup> Acts 1921; Burns 47-314; Baldwin 11142.

<sup>40</sup> Acts 1933, ch. 189, sec. 2. Acts 1937, ch. 129, sec. 1. Acts 1939; Burns, 1939 suppl., 47-1915, 47-1916; Baldwin, 1939 suppl., 11189-54, 11189-55.

All arrests made by the sheriff for the violation of laws concerning the operation of motor vehicles are reported by him to the state motor vehicle commissioner.<sup>41</sup>

For public displays of fireworks in the county (except in cities and towns), the sheriff approves the location, operator, permit, and indemnity bond, in accordance with regulations prescribed by the state fire marshal.<sup>42</sup> From 1911 until 1935 the sheriff assisted local health authorities in quarantining, muzzling, and killing dogs in accordance with the laws concerning hydrophobia.<sup>43</sup>

The sheriff charges the fees provided by law for the services he performs and pays the same over to the county treasurer, except as otherwise stated herein.<sup>44</sup> Fines imposed by the circuit court are collected by him and paid over to the county treasurer.<sup>45</sup>

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.<sup>46</sup>

Whenever the sheriff is unable to attend to his duties, the coroner performs them;<sup>47</sup> and if both the sheriff and coroner are unable to act, it is then the duty of the judge of the circuit court to appoint an elisor who discharges the

<sup>41</sup> Acts 1937; Burns, 1939 suppl., 47-448; Baldwin, 1937 suppl., 11317-17.

<sup>42</sup> Acts 1939; Burns, 1939 suppl., 20-1102, 20-1103; Baldwin, 1939 suppl., 2542-2, 2542-3. Interview of April 15, 1940 with Clem Smith, state fire marshal.

<sup>43</sup> Acts 1911, ch. 98, secs. 5, 6 (repealed by Acts 1935, ch. 271, sec. 1)

<sup>44</sup> Rev. Laws 1824, ch. 24, sec. 13; ch. 41, secs. 2, 7, 9; ch. 72, sec. 23; ch. 100, sec. 11. Acts 1871, ch. 17, sec. 20. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1932 (Spec. Sess.); Burns 49-1312, 49-1315, 49-1316; Baldwin 7571, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

<sup>45</sup> Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1817-18 (special), ch. 4, sec. 1. Rev. Laws 1824, ch. 22, sec. 8; ch. 29, sec. 8; ch. 57, sec. 42; ch. 100, sec. 11. Acts 1871, ch. 17, sec. 20. Acts 1905, 1927; Burns 9-2226 to 9-2228; Baldwin 2332, 2334, 2335.

<sup>46</sup> 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 4, 17. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

<sup>47</sup> Acts 1816-17, ch. 13, sec. 9. Rev. Laws 1824, ch. 100, sec. 7. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901, 49-2902; Baldwin 5436, 5437.

sheriff's duties until the disability of the sheriff or coroner is removed.<sup>48</sup>

The sheriff keeps a cashbook, a fee book,<sup>49</sup> a jail record,<sup>50</sup> a poultry dealers' record,<sup>51</sup> and a record of the service of process.<sup>52</sup> Quarterly and at the end of his term of office the sheriff reports to the auditor the amount of all fees collected during the time intervening since his last preceding report.<sup>53</sup> He makes an annual written report, under oath, to the circuit court showing all executions and other process in his hands, what levies he has made, the amount of money collected on each execution, and when service thereof was made, which report is to be entered on the order book of the circuit court.<sup>54</sup>

#### SERVICE ON WRITS

199. SHERIFF'S DOCKET, 1866-99. 16 vols. (1-7, 9, 10; 7 vols. unlabeled).

Record of service on writs in civil actions, showing date of writ; cause number; and names of plaintiff, defendant, and person processed. Also contains: Sheriff's State Docket, 1866-78, entry 200. Arr. chron. by terms of court, thereunder num. by cause nos. No index. Hdw. 250 pp. 18 x 10 x 2. S. stor. rm., attic.

200. SHERIFF'S STATE DOCKET, 1879-97. 2 vols. (1, 2). 1866-78 in Sheriff's Docket, entry 191.

Record of service on writs in criminal actions, showing date of writ and return, cause number, names of defendant and person processed, and amount of fees. Arr. chron. by terms of court, thereunder num. by cause nos. No index. Hdw. 250 pp. 18 x 10 x 2. S. stor. rm., attic.

201. SHERIFF'S DOCKET FOR COMMON PLEAS COURT, 1857-73. 4 vols. (1; 3 vols. unlabeled).

Record of service on writs, showing cause number, dates of writ and return, nature of action, and title of cause. Arr. chron. by court term, thereunder num. by cause nos. No index. Hdw. 250 pp. 18 x 10 x 2. S. stor. rm., attic.

<sup>48</sup> 2 Rev. Stat. 1852; Burns 4-322; Baldwin 1411.

<sup>49</sup> Acts 1871, ch. 17, secs. 17, 20. Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

<sup>50</sup> Rev. Laws 1838, ch. 83, sec. 5. Acts 1909; Burns 13-1007; Baldwin 13459.

<sup>51</sup> Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10487.

<sup>52</sup> Record required by the state board of accounts. Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>53</sup> Acts 1871, ch. 17, sec. 20. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

<sup>54</sup> Acts 1905; Burns 9-1024; Baldwin 2179. 2 Rev. Stat. 1852; Burns 49-2807; Baldwin 3502.

EXECUTIONS ON JUDGMENTS  
(See also entries 140-150)

202. EXECUTION DOCKET, 1861-. 13 vols. (B-F, H-K; 4 vols. unlabeled).

Record of executions of judgments, showing date, number and kind of writ; cause number; names of plaintiff, defendant, and judgment debtor; amounts of judgment, interest, and costs; dates of judgment, execution and sheriff's return; and volume and page reference to Register of Fees, 1871-, entry 206; and Foreign Fee Book, 1925-, entry 207. Arr. chron. by dates of writs. Indexed alph. by names of defendants. Hdw. 350 pp. 18 x 12 x 3. 12 vols., 1861-1933, S. stor. rm., attic; 1 vol., 1934-, sher. off.

203. CLERK'S RECORD OF FEES [Notices of Sheriff's Sales], 1879-95. 1 vol.

Newspaper clippings of notices of sheriff's sales, showing date of notice; date, place, and hour of sale; cause number; names of plaintiff and defendant; amount of judgment; and location and description of property to be sold. Arr. chron. by dates of notices. No index. Ptd. 50 pp. 18 x 10 x ½. S. stor. rm., attic.

JURORS

204. REGISTER OF JURORS, 1911-. 3 vols.

Register of jurors impaneled, showing cause number, dates impaneled and discharged, names of jurors, and amounts of fees and mileage. Arr. chron. by dates impaneled. Indexed alph. by names of jurors. Hdw. 460 pp. 18 x 10 x 3. 2 vols., 1911-34, S. stor. rm., attic; 1 vol., 1935-, sher. off.

JAIL RECORDS

205. JAIL REGISTER, 1880-. 8 vols. (2-9).

Register of prisoners committed to jail, showing dates of commitment and release, names of prisoner and arresting officer, nature of charge or offense, amount of bail, sentence imposed, number of days of incarceration, and amount of costs for maintenance. Arr. chron. by dates of commitments. Indexed alph. by names of prisoners. Hdw. 200 pp. 18 x 12 x 2. 3 vols. 1880-1908, C. C., S. stor. rm., attic; 5 vols., 1909-, jail, sher. off.

## FEE AND CASH RECORDS

206. REGISTER OF FEES, 1871-. 10 vols. Title varies:  
Cash Book, 1871-94, 1 vol.

Register of fees collected, showing date and nature of writ; number and nature of cause; names of plaintiff, defendant and payer; nature of action; kind and amount of fees; and date of payment. Also contains: Foreign Fee Book, 1871-1924, entry 207. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 12 x 3. 4 vols., 1871-1909, S. stor. rm., attic; 6 vols., 1910-, sher. off.

207. FOREIGN FEE BOOK, 1925-. 2 vols. 1871-1924 in Register of Fees, entry 206.

Record of fees collected for serving foreign writs, showing dates of writ, service, and return; cause number; names of county, plaintiff, and defendant; nature of writ, itemized list of fees; and date and amount of payment. Arr. chron. by dates of writs. Indexed alph. by names of foreign counties. Hdw. 300 pp. 18 x 12 x 2½. Sher. off.

208. RECORD OF MILEAGE, SERVICE OF PROCESS, 1929-. 1 vol. Record of miles traveled, showing date of service; cause number, names of plaintiff, defendant, and person processed, number of miles traveled per trip and per month, and amount of fees. Arr. chron. by dates of service. No index. Hdw. 100 pp. 14 x 9 x 1½. Sher. off.

## VII. CORONER

## LEGAL STATUS

The office of coroner was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Morgan County since its organization in 1822. The coroner is elected for a 2-year term by the voters of the county, without restrictions on reelection.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office until his

<sup>1</sup> Const. 1816, art. 4, secs. 25. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 9, sec. 13; ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13. Acts 1821-22, ch. 24, sec. 1. Rev. Laws 1824, ch. 35, sec. 13; ch. 100, secs. 5, 6, 8.

Exemption of coroner from arrest. Acts 1817-18 (general), ch. 54, sec. 3. Rev. Laws 1824, ch. 78, sec. 3.

<sup>2</sup> Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 13, secs. 1, 8. Rev. Laws 1824, ch. 100, secs. 1, 2, 5, 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

successor is elected and qualified.<sup>3</sup> The coroner must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>4</sup> must reside within the county after his election, and must not hold any other lucrative office.<sup>5</sup> Before May 6, 1853 he could not practice law.<sup>6</sup> He must post bond in an amount between \$1,000 and \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.<sup>7</sup> The coroner must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>8</sup>

The coroner receives as compensation for himself for impaneling and swearing witnesses and making and returning inquisition for the viewing of each body, \$5 for the first day and \$2.50 for each additional day, plus a mileage allowance of 5 cents for each mile necessarily traveled in performing his duties. When he performs the duties required of the sheriff, the coroner receives the same compensation allowed to the sheriff. The coroner can employ a clerk, at a rate of pay not exceeding \$2 per day, to take down evidence of any inquisition.<sup>9</sup>

For sufficient legal grounds the coroner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>10</sup> If the coroner is convicted of a felony the judgment of conviction must declare his office vacant.<sup>11</sup>

<sup>3</sup> Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5.

<sup>4</sup> Const. 1851, art. 15, sec. 4.

<sup>5</sup> *Ibid.*, art. 2, sec. 9; art. 6, sec. 6.

<sup>6</sup> Rev. Laws 1824, ch. 8, sec. 6. Rev. Stat. 1838, ch. 8, sec. 6. Rev. Stat. 1843, ch. 38, sec. 101. 1 Rev. Stat. 1852, ch. 92, sec. 1 (repealing previous laws). Jones v. Cavins (1853), 4 Ind. 305.

<sup>7</sup> Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1821-22, ch. 46, secs. 1, 2. Rev. Laws 1824, ch. 69, sec. 4; ch. 100, secs. 2, 8. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

<sup>8</sup> Const. 1851, art. 15, sec. 4. Rev. Laws 1824, ch. 100, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

<sup>9</sup> Acts 1871, ch. 17, sec. 13. Acts 1875 (Spec. Sess.); Burns 49-2917; Baldwin, 1935 suppl., 5452.

<sup>10</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. Laws 1824, ch. 29, sec. 34. Acts 1897, 1899; Burns 49-821 to 49-833, 49-836; Baldwin 13154 to 13166, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>11</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

Any vacancy in the office of coroner is filled through appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.<sup>12</sup>

There has been no major change in the office of coroner since the early days of the county, other than the abolition of the coroner's jury in 1879.<sup>13</sup>

#### FUNCTIONS AND RECORDS

The coroner is required to investigate deaths resulting from violence and other unnatural causes and inquire into the cause and manner of death.<sup>14</sup> He holds inquests without a jury,<sup>15</sup> and may subpoena witnesses and employ a physician or surgeon for post-mortem examinations.<sup>16</sup> If the finding of the inquisition determines that the death was caused by felony, the coroner must order the arrest of any person whom he may charge with such felony,<sup>17</sup> and may require witnesses to give recognizances for their appearance at the trial of the accused.<sup>18</sup> The evidence and verdict at the inquest are in writing, and are filed in the office of the clerk of the circuit court, together with all recognizances taken<sup>19</sup> and a

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<sup>12</sup> Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, sec. 7. Acts 1817-18 (general), ch. 17, sec. 8. Rev. Laws 1824, ch. 100, secs. 7, 8. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>13</sup> Acts 1816-17, ch. 6, sec. 1; ch. 10, sec. 15; ch. 32, sec. 9. Acts 1817-18 (general), ch. 20, secs. 1-9; ch. 54, sec. 3; ch. 57, sec. 9; ch. 66, sec. 1. Acts 1819-20, ch. 25. Rev. Laws 1824, ch. 100, secs. 10-22. Rev. Stat. 1838, ch. 99 (1), secs. 1-23; ch. 99 (2), secs. 1-3. Rev. Stat. 1843, ch. 5, sec. 136; ch. 37, sec. 135; ch. 38, secs. 82-84; ch. 56, secs. 1-16. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a. Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

<sup>14</sup> Acts 1817-18 (general), ch. 20, sec. 2. Rev. Laws 1824, ch. 100, sec. 15. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a.

<sup>15</sup> Acts 1817-18 (general), ch. 20, secs. 2-5. Rev. Laws 1824, ch. 100, secs. 15-18. Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

<sup>16</sup> Acts 1817-18 (general), ch. 20, secs. 6, 7. Rev. Laws 1824, ch. 100, sec. 20. 2 Rev. Stat. 1852; Burns 49-2906; Baldwin 5440.

<sup>17</sup> Acts 1817-18 (general), ch. 20, sec. 9. Rev. Laws 1824, ch. 100, sec. 22. 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

<sup>18</sup> Rev. Laws 1824, ch. 100, sec. 21. 2 Rev. Stat. 1852; Burns 49-2907; Baldwin 5441.

<sup>19</sup> *Ibid.* 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2908; Baldwin 5442.

written report giving a minute description of the deceased and valuables found with the body. If no person authorized to receive these valuables can be found after publication of notice, they are sold and the proceeds of sale are turned over to the county treasurer for the common school fund.<sup>20</sup> The coroner acts in a nonjudicial capacity, and his findings are not binding upon any person.<sup>21</sup> When the coroner is absent from the county or unable to attend an inquest, any justice of the peace of the county may hold the inquest.<sup>22</sup> The coroner makes a written report each month, to the state department of public safety, showing deaths of persons in his jurisdiction, during the preceding month, resulting from the operation of motor vehicles.<sup>23</sup> He is a peace officer with the same powers as the sheriff.<sup>24</sup> The coroner acts as sheriff in event of the absence, personal interest, or incapacity of the sheriff, or vacancy in the sheriff's office.<sup>25</sup> All judicial writs against the sheriff are executed by the coroner. This duty includes the arrest and detention of the sheriff by the coroner.<sup>26</sup>

The coroner is not required to keep any records permanently.<sup>27</sup>

For reports on coroner's inquests, 1876-, see entry 115; for record of coroner's inquests 1897-, see entry 114.

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<sup>20</sup> 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.), 1913; Burns 49-2909, 49-2910, 49-2913; Baldwin 5443, 5444, 5447.

<sup>21</sup> Const. 1816, art. 2; art. 4, sec. 25; art. 5, sec. 1. Const. 1851, art. 3, sec. 1; art. 6, sec. 2; art. 7, sec. 1. Stultz v. Board of County Comrs. (1907), 168 Ind. 539, 81 N. E. 471; Peoria Cordage Co. v. Industrial Board of Illinois (1918), 284 Ill. 90, 119 N. E. 996; Spiegel's House Furnishing Co. v. Industrial Board of Illinois (1919), 288 Ill. 422, 123 N. E. 606; People of New York v. Coombs (1899), 158 N. Y. 532, 53 N. E. 527.

<sup>22</sup> Rev. Laws 1824, ch. 100, sec. 23. 2 Rev. Stat. 1852; Burns 49-2915; Baldwin 5449.

<sup>23</sup> Acts 1939; Burns, 1939 suppl., 47-1915, 47-1919; Baldwin, 1939 suppl., 11189-54, 11189-58.

<sup>24</sup> Acts 1816-17, ch. 10, sec. 15; ch. 32, sec. 9. Acts 1817-18 (general), ch. 20, sec. 1; ch. 57, sec. 9. Acts 1819-20, ch. 25. Acts 1820-21, ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 22, sec. 8; ch. 46, sec. 1; ch. 100, sec. 10. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

<sup>25</sup> Acts 1816-17, ch. 13, sec. 9. Rev. Laws 1824, ch. 36, secs. 1, 2; ch. 37, sec. 2; ch. 45, sec. 14; ch. 100, secs. 8, 9. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

<sup>26</sup> Acts 1816-17, ch. 13, sec. 9. Acts 1819-20, ch. 46, sec. 2. 2 Rev. Stat. 1852; Burns 49-2903; Baldwin 5438.

<sup>27</sup> Board of County Comrs. v. Gillum (1884), 92 Ind. 511. Interview of August 30, 1939 with E. P. Brennan, state examiner.

## VIII. PROSECUTING ATTORNEY

## LEGAL STATUS

The office of prosecuting attorney was created by an act of 1814; was reestablished by acts of 1824, 1827, 1831, 1838, 1843, 1847, and the Constitution of 1851; and has existed in Morgan County since 1822. The prosecuting attorney is elected by the voters of the judicial circuit for 2-year term without restrictions on reelection.<sup>1</sup> Morgan County alone constitutes the 15th judicial circuit.<sup>2</sup> He is commissioned by the governor of Indiana<sup>3</sup> and holds office until his successor is elected and qualified.<sup>4</sup> He must be an elector of the judicial circuit at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>5</sup> must reside within the judicial circuit after his election, and must not hold any other lucrative office.<sup>6</sup> He must post bond in the amount of \$5,000 (to be approved by the circuit judge and filed with the clerk of the circuit court),<sup>7</sup> and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>8</sup>

The prosecuting attorney of Morgan County receives a regular salary of \$1,700 per year payable out of the county treasury. He is entitled to reimbursement for expenses incurred when attending conferences called by the attorney

<sup>1</sup> Const. 1851, art. 7, sec. 11. Acts 1851-52, ch. 8, sec. 1. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Robinson v. Moser (1931), 203 Ind. 66, 179 N.E. 270. See footnotes 17, 18 herein.

<sup>2</sup> Acts 1937, ch. 73, sec. 1.

From the organization of Morgan County in 1822 until August 1, 1911 the county belonged to judicial circuits composed of more than one county. See the essay entitled "Circuit Court."

<sup>3</sup> Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>4</sup> Const. 1851, art. 15, sec. 3.

<sup>5</sup> Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

<sup>6</sup> Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. State *ex rel.* Howard v. Johnston (1885), 101 Ind. 223.

<sup>7</sup> Rev. Laws 1824, ch. 24, sec. 11. Rev. Laws 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 4, secs. 84-100. Acts 1851-52, ch. 8, sec. 2. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

<sup>8</sup> Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Rev. Laws 1824, ch. 24, sec. 11. Rev. Laws 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 4, secs. 77, 78, 83, 84, 92. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

general. He is not permitted to retain, as compensation for himself, any fees collected by him.<sup>9</sup>

The prosecuting attorney may engage in the private practice of law, except as to matters which might conflict with his official duties.<sup>10</sup>

If the prosecuting attorney is convicted of corruption or other high crime, he may be removed from office by the supreme court. This is the only method by which he may be removed from office.<sup>11</sup>

Any vacancy in the office of prosecuting attorney is filled through appointment by the governor. The appointee must take oath and post bond as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.<sup>12</sup>

The prosecuting attorney may appoint such deputies as may be necessary. Their salaries are paid on warrants drawn by the auditor after an appropriation therefor by the county council and allowance of a claim therefor by the board of commissioners.<sup>13</sup> The deputies must take the oath required

<sup>9</sup> Acts 1810, ch. 10, sec. 5. Acts 1813-14, ch. 12, secs. 1, 2. Acts 1814, ch. 3, secs. 4, 5. Rev. Laws 1824, ch. 24, secs. 9, 12, 13. Rev. Laws 1831, ch. 10, sec. 5. Rev. Stat. 1838, ch. 9 (first act), sec. 5. Rev. Stat. 1843, ch. 13, sec. 5. Acts 1858 (Spec. Sess.), ch. 12, sec. 2. Acts 1859, ch. 114, sec. 1. Acts 1861, ch. 41, sec. 133. Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2657, 49-2695; Baldwin 7549, 7550. *Opinions of the Attorney General of Indiana*, 1937, p. 636; 1938, p. 234. See footnote 54 herein.

<sup>10</sup> Acts 1905; Burns 10-3102; Baldwin 2636. Acts 1917; Burns 10-3103, 10-3104; Baldwin 2637, 2638.

Liquor licenses. Acts 1901, 1913; Burns 49-2513; Baldwin 5467.

<sup>11</sup> Const. 1851, art. 7, sec. 12. Acts 1816-17, ch. 10, sec. 15. Acts 1897; Burns 49-819; Baldwin 13152. State *ex rel.* Gibson v. Friedley (1893), 135 Ind. 119, 34 N. E. 872; State v. Patterson (1914), 181 Ind. 660, 105 N. E. 228; State v. Redman (1915), 183 Ind. 332, 109 N. E. 184; State *ex rel.* Williams v. Ellis (1916), 184 Ind. 307, 112 N. E. 98; State v. Dearth (1929), 201 Ind. 1, 164 N. E. 489; State *ex rel.* Youngblood v. Warrick Circuit Court (1935), 208 Ind. 594, 196 N. E. 254; State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>12</sup> Const. 1851, art. 5, sec. 18; art. 6, sec. 9. Acts 1825-26, ch. 44, sec. 3. Rev. Laws 1831, ch. 10, sec. 4. Rev. Stat. 1838, ch. 9 (first act), sec. 4. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-403, 49-409; Baldwin 13101, 13103, 13106, 13107. State *ex rel.* Custer v. Schortemeier (1929), 197 Ind. 507, 151 N. E. 407. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>13</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2602, 49-2695; Baldwin 7548, 7550.

of the prosecuting attorney, may perform all his official duties, and are subject to the same regulations and penalties.<sup>14</sup> The prosecuting attorney may remove such deputies at any time and is responsible for their official acts.<sup>15</sup> Whenever the prosecuting attorney is disqualified or fails to attend court the judge must appoint some person to act in his place.<sup>16</sup>

From the organization of Morgan County in 1822<sup>17</sup> until August 9, 1824 a prosecuting attorney for the county was appointed by the judges of the circuit court, to serve during his good behavior. From August 9, 1824 until 1827 a prosecuting attorney for the judicial circuit was appointed for a 1-year term by the Governor. From 1827 until 1843 he was appointed for a 2-year term by joint ballot of the senate and house of representatives. From 1843 until 1847 he was elected for a 2-year term by the voters of the judicial circuit. From 1847 until 1851 his term was 3 years. Since 1851 his term has been 2 years.<sup>18</sup>

Morgan County had a court of common pleas from 1853 until 1873. The judicial district of that court was composed of the counties of Brown, Monroe, and Morgan from 1853 until 1859, and the counties of Brown, Johnson, Monroe, Morgan, and Shelby from 1859 to 1873.<sup>19</sup> During the existence of the court of common pleas, a district attorney was biennially elected by the voters of the judicial district of that court. The district attorney's duties were similar to those of the prosecuting attorney, except that they extended only to the

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<sup>14</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. Stout v. State (1884), 93 Ind. 150.

<sup>15</sup> 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933; Burns 49-2602; Baldwin 7548.

<sup>16</sup> Rev. Laws 1824, ch. 24, sec. 12. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. Perfect v. State (1926), 197 Ind. 401, 141 N. E. 52; State *ex rel.* Williams v. Ellis (1916), 184 Ind. 307, 112 N. E. 98; State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N.E. (2d) 1020.

<sup>17</sup> Acts 1821-22, ch. 24, sec. 1.

<sup>18</sup> Const. 1816, art. 12, secs. 3, 4. Const. 1851, art. 7, sec. 11. Acts 1810, ch. 10, sec. 5. Acts 1813-14, ch. 12, secs. 1-5; ch. 29, secs. 1, 2. Acts 1814, ch. 2, secs. 1, 2; ch. 3, secs. 4, 5. Acts 1816-17, ch. 3, sec. 2. Rev. Laws 1824, ch. 24, secs. 9, 10. Acts 1826-27, ch. 17, sec. 1. Rev. Laws 1831, ch. 10, sec. 1. Rev. Stat. 1838, ch. 9 (first act), sec. 1. Rev. Stat. 1843, ch. 4, sec. 28; ch. 58, sec. 1; ch. 59, sec. 21; ch. 73, sec. 1. Acts 1842-43, ch. 15, sec. 1. Acts 1846-47 (general), ch. 13, sec. 1. Acts 1850-51 (general), ch. 132, secs. 1-3. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456.

<sup>19</sup> See the essay entitled "Circuit Court."

courts of common pleas and the courts of justices of the peace in the counties forming the judicial district of the court of common pleas.<sup>20</sup>

#### FUNCTIONS AND RECORDS

The prosecuting attorney is a judicial officer.<sup>21</sup> He acts as attorney for the state in criminal cases under the state laws and as attorney for the state and county in certain civil cases.<sup>22</sup>

Investigations of alleged violations of criminal laws are conducted by the prosecuting attorney,<sup>23</sup> the sheriff,<sup>24</sup> or the coroner,<sup>25</sup> cooperating with one another and with state and federal bureaus of law enforcement;<sup>26</sup> and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.<sup>27</sup>

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.<sup>28</sup> When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill," and signs his name

<sup>20</sup> Acts 1851-52, ch. 8. 2 Rev. Stat. 1852, pt. 3, ch. 3. Acts 1861 (Spec. Sess.), ch. 25 ch. 28, sec. 1. Acts 1873, ch. 29, sec. 79.

<sup>21</sup> State *ex rel.* Freed v. Martin Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910; State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

<sup>22</sup> *Ibid.* Acts 1817-18 (general), ch. 4, sec. 2. Rev. Laws 1824, ch. 24, sec. 10. Rev. Laws 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 37, sec. 101. Acts 1851-52, ch. 8, secs. 1, 3, 4. Acts 1905; Burns 4-2409; Baldwin 11595. 2. Rev. Stat. 1852; Burns 49-2501, 49-2503, 49-2504; Baldwin 5456, 5459, 5460. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

<sup>23</sup> 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459.

"Inquisitorial powers are vested in the office of the prosecutor and in grand juries, and not in judges and courts." State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

<sup>24</sup> 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

<sup>25</sup> 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

<sup>26</sup> Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

<sup>27</sup> Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

<sup>28</sup> Acts 1905; Burns 9-826; Baldwin 2122. Williams v. State (1919), 188 Ind. 283, 123, N. E. 209.

thereunder. The indictment is also signed by the prosecuting attorney.<sup>29</sup>

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.<sup>30</sup> He may also prosecute on affidavit all criminal offenses under the state laws, other than treason and murder (which must be prosecuted on indictment).<sup>31</sup>

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all civil actions and proceedings in which the county may be interested or involved,<sup>32</sup> including suits to collect taxes and tax penalties<sup>33</sup> and

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<sup>29</sup> Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State* (1938), 214 Ind. 328, 14 N. E. (2d) 590.

Endorsement by prosecuting attorney. *Taylor v. State* (1888), 113 Ind. 471, 16 N. E. 183; *Robinson v. State* (1912), 177 Ind. 263, 97 N. E. 929; *Hamer v. State* (1928), 200 Ind. 403, 163 N. E. 91.

The statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State* (1938), 213 Ind. 560, 12 N. E. (2d) 270.

<sup>30</sup> Rev. Laws 1824, ch. 24, sec. 10. Rev. Laws 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

<sup>31</sup> Acts 1905, 1927; Burns 9-908; Baldwin 2131.

Endorsement by prosecuting attorney. *Robinson v. State* (1912), 177 Ind. 263, 97 N. E. 929.

A court cannot compel the prosecuting attorney to approve the affidavit. *State ex rel. Freed v. Martin Circuit Court* (1938), 214 Ind. 152, 14 N. E. (2d) 910.

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." *Ibid.*

"In him is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. If he fails to exercise his official discretion honestly and impartially, the remedy is by impeachment." *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

<sup>32</sup> Acts 1816-17 (general), ch. 32, sec. 9; ch. 72, sec. 5. Rev. Laws 1824, ch. 24, sec. 10. Rev. Laws 1831, ch. 90, secs. 21, 27. Rev. Stat. 1843, ch. 13, sec. 233; ch. 14, sec. 35; ch. 15, sec. 128. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. *Board of County Comrs. v. Templer* (1870), 34 Ind. 322.

<sup>33</sup> Rev. Laws 1824, ch. 86, secs. 23, 43. Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1935, 1937; Burns, 1939 suppl., 12-912; Baldwin, 1937 suppl., 3764-41. Acts 1937; Burns, 1939 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-1319, 64-1518, 64-1519, 64-2208; Baldwin 15576, 15633, 15723, 15772, 15773, 15815. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933; Burns 64-921; Baldwin 15919. Acts 1933, 1937; Burns, 1939 suppl., 64-2627, 64-2628; Baldwin, 1937 suppl., 16007, 16009. *Board of County Comrs. v. Templer* (1870), 34 Ind. 322; *La Plante v. State ex rel. Goodman* (1899), 152 Ind. 80, 52 N. E. 452.

suits against county officers and the sureties on their official bonds.<sup>34</sup>

The prosecuting attorney prosecutes suits on forfeited recognizances,<sup>35</sup> suits to recover funds of certain decedents' estates unlawfully retained by an administrator,<sup>36</sup> suits before 1921 to recover costs of cutting hedge fences when the work was done at county expense,<sup>37</sup> suits against railroad companies to recover penalties for not graveling highway crossings,<sup>38</sup> suits to recover gambling losses,<sup>39</sup> injunction suits to prevent violation of laws concerning horse racing,<sup>40</sup> and injunction suits to prevent persons from engaging in business while delinquent in payment of gross income taxes.<sup>41</sup> He acts for the state when a surety on a forfeited recognizance sues the principal on the theory of subrogation of the rights of the state.<sup>42</sup> He prosecutes bastardy proceedings,<sup>43</sup> quo warranto proceedings,<sup>44</sup> and cases of surety of the peace.<sup>45</sup>

<sup>34</sup> Acts 1813, ch. 8, sec. 24. Acts 1816-17, ch. 8, sec. 22; ch. 17, sec. 13; ch. 19, secs. 14, 15. Acts 1817-18 (general), ch. 42, secs. 19-22; ch. 43, sec. 21; ch. 44, sec. 13. Acts 1818-19, ch. 8, sec. 2. Acts 1819-20, ch. 46, secs. 1, 2. Rev. Laws 1824, ch. 22, sec. 6; ch. 23, sec. 8; ch. 24, sec. 10; ch. 30, secs. 1-3; ch. 56, sec. 4; ch. 86, secs. 21, 23. Acts 1825, ch. 21, sec. 4. Rev. Laws 1831, ch. 10, sec. 2; ch. 81, sec. 46. Acts 1834-35 (general), ch. 18. Rev. Stat. 1838, ch. 9 (first act), sec. 2. 1 Rev. Stat. 1852; Burns 44-204; Baldwin 5635. Acts 1883; Burns 49-142; Baldwin 13094. Acts 1895; Burns 49-1408; Baldwin 7583. Acts 1917; Burns 60-227; Baldwin 13878. Acts 1919; Burns 64-2507, 64-2508; Baldwin 15856, 15857. *Wood v. State ex rel. Canady* (1890), 125 Ind. 219 25 N. E. 190; *Wood v. Board of County Comrs.* (1890), 125 Ind. 270, 25 N. E. 188.

<sup>35</sup> Acts 1816-17, ch. 5, sec. 1. Acts 1817-18 (general), ch. 4, sec. 1. Rev. Laws 1824, ch. 57, sec. 1. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. *State v. Schloss* (1883), 92 Ind. 293.

<sup>36</sup> Acts 1881 (Spec. Sess.); Burns 6-1605; Baldwin 3237.

<sup>37</sup> Acts 1891, Burns 30-303; Baldwin, 1935 suppl., 7648-1. Acts 1895; Burns 30-307; Baldwin 7649.

<sup>38</sup> Acts 1895; Burns 55-620; Baldwin 14119.

<sup>39</sup> 1 Rev. Stat. 1852; Burns 10-2323; Baldwin 2806. *Ervin v. State ex rel. Walley* (1897), 150 Ind. 332, 48 N. E. 249.

<sup>40</sup> Acts 1895; Burns 10-2711; Baldwin 9273.

<sup>41</sup> Acts 1933, 1937; Burns, 1933 suppl., 64-2613(c); Baldwin, 1937 suppl., 15993(c).

<sup>42</sup> Acts 1905; Burns 9-1045; Baldwin 2178.

<sup>43</sup> 2 Rev. Stat. 1852; Burns 3-622; Baldwin 867.

<sup>44</sup> Acts 1819-20, ch. 74, sec. 3. Rev. Stat. 1843, ch. 48, secs. 46, 58. 2 Rev. Stat. 1852, pt. 2, ch. 1, secs. 749, 750. Acts 1881 (Spec. Sess.), 1929; Burns 3-2001, 3-2002; Baldwin 1045, 1046. *Acts 1897*; Burns 49-821 to 49-823, 49-831; Baldwin 13154 to 13156, 13164.

<sup>45</sup> Acts 1905; Burns 9-511; Baldwin 2059. *Davis v. State* (1894), 38 Ind. 11, 37 N. E. 397.

He resists undefended divorce suits<sup>46</sup> and applications for change of names of persons; and protects the interests of all persons of unsound mind.<sup>47</sup> In lunacy proceedings he represents the person alleged to be insane.<sup>48</sup> He must be present at the hearing of proceedings to commit any person to a hospital operated by the trustees of Indiana University.<sup>49</sup> On appeals from the medical examination board in license matters he represents that board.<sup>50</sup>

The Attorney General of Indiana holds conferences with all prosecuting attorneys concerning the enforcement of the state laws.<sup>51</sup>

The prosecuting attorney administers oaths<sup>52</sup> and performs the duties of notaries public.<sup>53</sup> He collects docket fees for his services in criminal prosecutions, divorce cases, suits on forfeited recognizances, and other suits which he is required to prosecute or defend, and pays such fees over to the county treasurer. He makes monthly reports to the board of commissioners concerning his activities and the amount of fees collected by him and turned over to the treasurer.<sup>54</sup>

The state board of accounts has prescribed forms for an appearance record, fee book, and cashbook, to be kept by the prosecuting attorney, and a monthly report to be made by him.<sup>55</sup>

No records of the prosecuting attorney, however, were found in Morgan County.

<sup>46</sup> Acts 1817-18 (general), ch. 35, sec. 3. Rev. Laws 1831, sec. 9. Rev. Stat. 1838, ch. 31, sec. 8. Rev. Stat. 1843, ch. 35, sec. 69. Acts 1873, 1913; Burns 3-1212 to 3-1215; Baldwin 916 to 919. State v. Brinneman (1869), 120 Ind. 357, 22 N. E. 332. Scott v. Scott (1861), 17 Ind. 309.

<sup>47</sup> Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. Martin v. Matsinger (1891), 130 Ind. 555, 30 N. E. 523.

<sup>48</sup> 2 Rev. Stat. 1852, Acts 1895; Burns 8-202; Baldwin 3460. Chase v. Chase (1904), 163 Ind. 178, 71 N. E. 485. Martin v. Matsinger (1891), 130 Ind. 555, 30 N. E. 523.

<sup>49</sup> Acts 1939; Burns, 1939 suppl., 28-5416, 28-5417; Baldwin, 1939 suppl., 14078-89b, 14078-89c.

<sup>50</sup> Acts 1897, 1899, 1901; Burns 63-1306; Baldwin 10707.

<sup>51</sup> Acts 1931, 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

<sup>52</sup> Acts 1901; Burns 49-2506; Baldwin 5462. Lenciania v. State (1929), 200 Ind. 528, 164 N. E. 271.

<sup>53</sup> Acts 1919; Burns 49-2507 to 49-2510; Baldwin 5463 to 5466.

<sup>54</sup> Rev. Laws 1824, ch. 24, sec. 13; ch. 86, secs. 22, 24. Acts 1825-26, ch. 44, sec. 4. Acts 1861 (Spec. Sess.), ch. 25, sec. 4; ch. 28, sec. 1. Acts 1871, ch. 17, sec. 5. Acts 1873, ch. 48, sec. 16. Acts 1875 (Spec. Sess.); Burns 49-2511; Baldwin 5468. Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2695; Baldwin 7550. *Opinions of the Attorney General of Indiana, 1938*, p. 238.

<sup>55</sup> Acts 1909; Burns 60-202; Baldwin 12855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

## IX. COUNTY ASSESSOR

## LEGAL STATUS

The office of county assessor exists under the mandatory provisions of an act of 1919, as amended in 1921. The assessor is elected for a 4-year term by the voters of the county, and holds office until his successor has been elected and qualified. He receives a certificate of election from the clerk of the circuit court and is not commissioned by the governor. The assessor must be an elector of the county at the time of his election, must have been a resident freeholder thereof throughout the preceding 4 years, must reside within the county after his election, and must not hold any other lucrative office. He must post bond in the amount of \$5,000, to be approved by and filed with the auditor.<sup>1</sup> The assessor must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>2</sup>

The assessor receives a regular salary of \$1,080 per year, plus \$2.50 for each day spent in conference with the state board of tax commissioners, together with actual railroad fare to and from the place of holding such conferences.<sup>3</sup> For his services as appraiser of decedents' estates, the circuit court allows him compensation between \$1 and \$50 for each estate appraised, based on the value thereof.<sup>4</sup> He is entitled to reimbursement for expenses when temporarily working outside Morgan County under direction of the board of commissioners.<sup>5</sup> He is not permitted to retain, as compensation for himself, any fees collected by him, other than as stated above.<sup>6</sup>

For sufficient legal grounds the assessor may be removed from office by the circuit court, after trial by jury on an

<sup>1</sup> Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6; art. 15, secs. 3, 6. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>2</sup> Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 19, sec. 1. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>3</sup> Acts 1817-18 (general), ch. 42, sec. 23. Acts 1933; Burns 49-1004, 49-1011; Baldwin 7534, 7541. Acts 1919; Burns 64-1103; Baldwin 15698.

<sup>4</sup> Acts 1931, 1933; Burns, 1939 suppl., 6-2408; Baldwin, 1939 suppl., 15946.

<sup>5</sup> Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>6</sup> Acts 1933; Burns 49-1005; Baldwin 7535.

accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>7</sup> If the assessor is convicted of a felony the judgment of conviction must declare his office vacant.<sup>8</sup> For incompetency, neglect of duty, or misconduct in office, the assessor may be removed from office by the state board of tax commissioners after a hearing by that board. On appeal to the circuit court he may have a trial *de novo* on the charges sustained by the state board.<sup>9</sup>

Any vacancy in the office of assessor is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), an assessor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and holds office until his successor is elected and qualified.<sup>10</sup>

Subject to the approval of the board of commissioners, the assessor may appoint one or more deputies to serve no more than 30 days in any calendar year. Each deputy receives \$4 per day as compensation. They have the same qualifications, powers, and duties as the assessor, are subject to his control and direction, and must take the oath of office required of the assessor.<sup>11</sup> With the approval of the board of commissioners, the assessor may employ also clerical assistants who shall each receive compensation not exceeding \$5 per day, pursuant to appropriation by the county council.<sup>12</sup>

From the organization of Morgan County in 1822<sup>13</sup> until 1841, assessors (often called listers) were appointed annually by the board doing county business, to list all property

<sup>7</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>8</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>9</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>10</sup> Const. 1851, art. 6, sec. 9. Rev. Stat. 1843, ch. 7, sec. 61. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Acts 1919, 1921; Burns 64-1101; Baldwin 15696. *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429. *Opinions of the Attorney General of Indiana*, 1936, p. 9. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>11</sup> 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919; Burns 64-1102; Baldwin 15698.

<sup>12</sup> Acts 1933; Burns 49-1011; Baldwin 7541.

<sup>13</sup> Acts 1821-22, ch. 24, sec. 1.

subject to taxation and to determine the value thereof (where the tax was based on value).<sup>14</sup> Under acts of 1824 and 1831 any person refusing to accept his appointment as assessor was subject to a penalty of \$25.<sup>15</sup> An act of February 10, 1841 provided for the election of a county assessor in each county for a 2-year term.<sup>16</sup> The office of county assessor was abolished in 1852, and the duties thereof were transferred to township assessors elected for 2-year terms.<sup>17</sup> From 1841 to 1872 real property was assessed by appraisers appointed, from time to time as needed, by the board of commissioners.<sup>18</sup> The elective office of county assessor (2-year term) replaced that of appraiser in 1872;<sup>19</sup> but in 1875 the office was abolished, and the duties were transferred to township assessors elected for 2-year terms.<sup>20</sup> An act of March 6, 1891 reestablished the office of county assessor. Under this law the assessor was elected for a 4-year term, and was not eligible for reelection until 4 years after the expiration of the term for which he was elected. He was required to be a resident freeholder and householder of the county not less than 5 years before the date of his election.<sup>21</sup> The act of 1891 was superseded by the act of 1919 mentioned in the first paragraph herein. In 1933 the office of township assessor was abolished in each township having a population not exceeding 5,000 (all townships except Washington), and the duties of the office were transferred to the township trustee.<sup>22</sup> Reference hereinafter to township assessors includes township trustees performing the duties prescribed by statutes for township assessors.

<sup>14</sup> Acts 1807, ch. 51, sec. 11; ch. 92, sec. 1. Acts 1811, ch. 35, secs. 1, 17. Acts 1813-14, ch. 32, secs. 1-3. Acts 1816-17, ch. 19, secs. 1-6, 8, 16. Acts 1817-18 (special), ch. 36, sec. 3. Acts 1817-18 (general), ch. 42, sec. 1. Rev. Laws 1824, ch. 15, sec. 7; ch. 86, secs. 5-7. Rev. Laws 1831, ch. 81, secs. 3-5. Rev. Stat. 1838, ch. 21, sec. 12.

<sup>15</sup> Rev. Laws 1824, ch. 86, sec. 29. Rev. Laws 1831, ch. 81, sec. 4.

<sup>16</sup> Acts 1840-41 (general), ch. 3, sec. 1.

<sup>17</sup> 1 Rev. Stat. 1852, ch. 6, sec. 64; ch. 92, sec. 1.

<sup>18</sup> Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

<sup>19</sup> Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

<sup>20</sup> Acts 1875, ch. 97, secs. 2, 7, 9.

<sup>21</sup> Acts 1891, ch. 99, sec. 112.

<sup>22</sup> Acts 1933; Burns 64-1031; Baldwin 15664.

## FUNCTIONS AND RECORDS

The duties of the county assessor are to examine tax duplicates and other records and papers in the offices of the auditor, treasurer, recorder, clerk, sheriff, and surveyor, together with the returns of the township assessors; to discover, list, and assess (after notice to the owner) all omitted property of every kind, entering his valuations in a separate column on the township assessors' books; to receive lists of registrations of motor vehicles and trailers from the state motor vehicle commissioner, and to check, verify, and ascertain that all motor vehicles and trailers owned by the listed registrants residing in the county are on the assessment lists of the county; to advise and instruct the township assessors; to report to the state board of tax commissioners any incompetency or neglect of duty on the part of township assessors;<sup>23</sup> and determine the value of taxable intangibles.<sup>24</sup> Under appointments by the circuit court, he serves as appraiser of estates in the administration of the inheritance tax law.<sup>25</sup> He appraises school property in accordance with laws concerning transfer of pupils from one school to another.<sup>26</sup> He is a member and president of the county board of review.<sup>27</sup> His work is under the direction of the state board of tax commissioners.<sup>28</sup> Formerly the county assessor made out the assessment rolls (now made by the auditor),<sup>29</sup> took a census of deaf mutes in the county (now done by township assessors),<sup>30</sup> and kept a book showing

<sup>23</sup> Acts 1927, 1937; Burns, 1939 suppl., 47-129; Baldwin, 1937 suppl., 11145. Acts 1919; Burns 64-1102; Baldwin 15698. *McConnell v. Hampton* (1905), 164 Ind. 547, 73 N. E. 1092. *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 22-30, 53-139.

<sup>24</sup> Acts 1933, 1935; Burns, 1939 suppl., 64-205; Baldwin, 1935 suppl., 15903. "Valuation of Intangibles," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 39-53.

<sup>25</sup> Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1931, 1933, 1939; Burns, 1939 suppl., 6-2408; Baldwin, 1939 suppl., 15946. "Inheritance Tax," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 32-39.

<sup>26</sup> Acts 1901, 1909, 1915, 1921; Burns 28-3704; Baldwin 6288.

<sup>27</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>28</sup> Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>29</sup> Rev. Laws 1824, ch. 86, secs. 4, 5, 7. Acts 1838-39 (general), ch. 14, 15. Rev. Stat. 1843, ch. 12, sec. 28. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

<sup>30</sup> Acts 1838-39 (general), ch. 41, sec. 1. Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

the names of all blind, dumb, deaf, or insane persons in the county.<sup>31</sup>

Assessments by the county assessor under the property tax laws are subject to review by the county board of review. Such assessments are also reviewable by the circuit court on the question of taxability of the property.<sup>32</sup>

The assessor must return to the auditor, on or before the 1st Monday after July 4 each year, all township assessors' books, returns, lists, schedules, maps, and other papers received by him from the auditor, together with such additional lists, assessments, books, and papers as he has made there-to.<sup>33</sup> He is not required to keep any records permanently.<sup>34</sup>

For assessor's records, see entries 293, 295, 297, 300, 302.

209. [APPLICATION FOR DETERMINING THE VALUATION OF TAXABLE INTANGIBLES], 1934-. 1 f. d.

Applications for determining the valuation of taxable intangibles, showing date of application; name of applicant; schedule of intangibles; amount of face value; value by applicant, county assessor, and state tax board; and computation of tax. Arr. chron. by dates of applications. No index. Hdw. and typed. 6 x 12 x 24. Assr. off.

For other intangible tax records, see entry 229.

210. UNCANCELLED MORTGAGES, 1899-1924. 1 vol. Discontinued.

Record of uncanceled real estate mortgages, showing date and amount of mortgage, and names of mortgagee and mortgagor. Arr. alph. by names of mortgagees. No index. Hdw. 498 pp. 18 x 14 x 3½. S. stor. rm., attic.

For other real estate mortgages, see entries 80-84, 303.

## X. COUNTY BOARD OF REVIEW

### LEGAL STATUS

The county board of review was created by an act of

<sup>31</sup> Acts 1849-50 (general), ch. 17, secs. 2, 3.

<sup>32</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

<sup>33</sup> Acts 1919; Burns 64-1102; Baldwin 15698.

<sup>34</sup> Interview of May 18, 1939 with E. P. Brennan, state examiner.

1891<sup>1</sup> and was reestablished by acts of 1895<sup>2</sup> and 1919. The board is composed of the county assessor, auditor, and treasurer, and two freeholders of opposite political parties, appointed annually by the judge of the circuit court.<sup>3</sup> An appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof throughout the preceding year, and must reside within the county after his appointment.<sup>4</sup> Every member must take an oath that he will support the state and federal constitutions and will faithfully discharge his duties as a member of the board of review and will assess, review, and equalize the assessment of all property of the county according to the true cash value of such property.<sup>5</sup> The assessor and auditor, are, respectively, the president and secretary of the county board of review.<sup>6</sup>

The appointed members of the county board of review receive, as compensation, \$5 for each day actually served as members of the board. Allowance therefor is made by the board of commissioners on claims supported by the certificate of the assessor. The assessor, auditor, and treasurer receive no compensation, in addition to their regular salaries, for their services on the board of review. Before 1933 the auditor and treasurer received, in addition to their regular salaries, \$5 per day for each day actually served as members of the board.<sup>7</sup>

For sufficient legal grounds any member of the county board of review may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>8</sup> If any member is convicted of a felony the judgment of conviction must declare

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<sup>1</sup> Acts 1891, ch. 99, sec. 114.

<sup>2</sup> Acts 1895, ch. 36, sec. 2.

<sup>3</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>4</sup> Const. 1851, art. 6, secs. 4, 6.

<sup>5</sup> *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>6</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>7</sup> Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

<sup>8</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

his office vacant.<sup>9</sup> The judge of the circuit court fills vacancies as to members appointed by him.<sup>10</sup> Any vacancy in the office of the other members is filled by replacement in the office of county assessor, auditor, or treasurer, as the case may be, the membership in the board of review being an incident to such office.<sup>11</sup>

Before 1891 duties analogous to those of the present board of review were performed by the following officers and boards: From the organization of the county in 1822<sup>12</sup> through 1823, board of commissioners;<sup>13</sup> 1824 through 1838, clerk of the circuit court and assessors or listers;<sup>14</sup> 1839 through 1840, board of commissioners, clerk of the circuit court, and assessors or listers;<sup>15</sup> 1841, board of commissioners, county assessor, and auditor (personal property only); 1841, board of equalization, composed of the board of commissioners, auditor, and appraiser (real estate only);<sup>16</sup> 1842 through 1852, board of equalization, consisting of the board of commissioners, county assessor, and auditor;<sup>17</sup> 1853 through 1871, board of equalization, composed of the board of commissioners, auditor, and assessors, for personal property,<sup>18</sup> and composed of the board of commissioners, auditor, and appraiser or appraisers, for real state;<sup>19</sup> 1872 through 1880, board of equalization, including the board of commissioners, county assessor, and auditor;<sup>20</sup> and 1881 through 1890, board of equalization, consisting of the board of commissioners and four freeholders (from different parts of the county) appointed by the circuit judge.<sup>21</sup> The board of review under

<sup>9</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>10</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>11</sup> See the essays entitled "Auditor," "County Assessor," and "Treasurer."

<sup>12</sup> Acts 1821-22, ch. 24, sec. 1.

<sup>13</sup> Acts 1816-17, ch. 19, sec. 7. Acts 1817-18 (general), ch. 42, sec. 12.

<sup>14</sup> Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8.

<sup>15</sup> Acts 1838-39 (general), ch. 14, secs. 5, 14, 15.

<sup>16</sup> *Ibid.*, Acts 1840-41 (general), ch. 1, secs. 9, 13.

<sup>17</sup> Acts 1840-41 (general), ch. 1, sec. 18.

<sup>18</sup> 1 Rev. Stat. 1852, ch. 6, sec. 91.

The Revised Statutes of 1852 became effective on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

<sup>19</sup> 1 Rev. Stat. 1852, ch. 35, sec. 2. Jones v. Cavins (1853), 4 Ind. 305.

<sup>20</sup> Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278.

<sup>21</sup> Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

the act of 1891, referred to in the first paragraph of this essay, was composed of the county assessor, auditor, and treasurer;<sup>22</sup> and from 1895 to 1918 it was composed, as at present, of the county assessor, auditor, treasurer, and two freeholders appointed by the circuit judge.<sup>23</sup>

In each township having a population not exceeding 5,000 (all townships except Washington), the office of township assessor has been abolished and the duties of such office are performed by the township trustee. Reference hereinafter to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.<sup>24</sup>

#### FUNCTIONS AND RECORDS

Personal property is assessed each year as of March 1.<sup>25</sup> Reassessment of lands, lots, or improvements can be made only when ordered by the state board of tax commissioners—the old assessment remaining in effect until changed.<sup>26</sup> Without such order any omitted lands, lots, improvements, or personal property may be assessed by a township assessor,<sup>27</sup> the county assessor,<sup>28</sup> the auditor,<sup>29</sup> or the board of review;<sup>30</sup> and any newly platted additions to a city or town (though assessed the previous year by a different description) may be assessed by the auditor.<sup>31</sup>

The county board of review hears complaints of taxpayers concerning new assessments(except those made by the state board of tax commissioners), reviews and corrects such assessments, and equalizes new property valuations. The tax list prepared by the county assessor and township assessors stands except in the particulars where it is changed by the board. The board has power to set aside the new assessments for the whole county or a whole taxing unit therein and to

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<sup>22</sup> Acts 1891, ch. 99, sec. 114.

<sup>23</sup> Acts 1895, ch. 36, sec. 2.

<sup>24</sup> Acts 1933; Burns 64-1031; Baldwin 15604.

<sup>25</sup> Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

<sup>26</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685.

Interview of March 29, 1940 with Philip Zoercher, chairman of the state board of tax commissioners.

<sup>27</sup> *Ibid.* Acts 1919; Burns 64-1025; Baldwin 15692.

<sup>28</sup> Acts 1919; Burns 64-1102; Baldwin 15698.

<sup>29</sup> Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

<sup>30</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>31</sup> Acts 1919; Burns 64-1027; Baldwin 15691.

order another assessment by the county assessor and township assessors under instructions from the board.<sup>32</sup> The action of the board is subject to review by the state board of tax commissioners.<sup>33</sup> On questions of law concerning valuation of property, the decisions of the board of review and of the state board of tax commissioners may be reviewed by the circuit court; and appeal (on law and facts) may be taken from the board of review to the circuit court on the question of the property's taxability.<sup>34</sup>

The board of review values and assesses the franchises, privileges, and capital stock of certain classes of corporations, and reviews the assessments of the tangible property of such corporations. Reports filed by these corporations with the county assessor are examined by the board. From the findings of the board the auditor computes the corporation taxes to be placed on the tax duplicate. This action of the county board is reviewable by the state board of tax commissioners.<sup>35</sup>

Sworn written statements to obtain tax exemptions of mortgaged realty and to obtain tax exemptions of realty and personality used for educational, charitable, religious, fraternal, literary, or scientific purposes are filed with the auditor each year and are presented by him to the board of review for decision thereon. The action of the board of review is reviewable by the state board of tax commissioners.<sup>36</sup>

The board of review holds an annual meeting beginning on the 1st Monday of June;<sup>37</sup> and the session can last 38 days

<sup>32</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. "Uniformity of Assessment," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (Indianapolis, 1940), pp. 54-57.

<sup>33</sup> Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

<sup>34</sup> Acts 1927; Burns 64-1020; Baldwin 15686. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

<sup>35</sup> Acts 1919, 1921; Burns 64-723, 64-724; Baldwin 15637, 15638.

<sup>36</sup> Acts 1919, 1933; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. Acts 1937; Burns, 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

No application for exemption is required as to property of the State of Indiana, the United States, municipal corporations, political subdivisions of the state, churches, state accredited schools, hospitals, and college fraternities and sororities. Acts 1937; Burns, 1939 suppl., 64-215; Baldwin, 1937 suppl., 15518-4.

<sup>37</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

in any year in which the state board of tax commissioners orders reassessment of any real estate in the county, and 28 days in other years. Additional time for completing this board's duties may be allowed by the state board of tax commissioners.<sup>38</sup> A majority of all the members of the board of review constitutes a quorum for the transaction of business, and such majority must concur in decisions of the board. The sheriff serves all of the board's process not served by the assessor, and obeys all orders of the board. The auditor, as secretary, is required to keep full and accurate minutes of the proceedings of the board.<sup>39</sup> The county assessor, as president, keeps an attendance record; and, at the close of the session, certifies to the board of commissioners the number of days actually served by each member.<sup>40</sup>

211. RECORD OF COUNTY BOARD OF REVIEW, 1891-. 1 vol. Minutes of meetings, showing date and place of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by dates of meetings. No index. Typed. 450 pp. 18 x 11 x 3. Aud. vt.

For original minutes of meetings, 1891-, see entry 212ii.

212. COUNTY BOARD OF REVIEW, 1891-. 5 f. b.

Board records and proceedings, including:

i. Appointments of members by judge of circuit court, showing date of appointment and oath, and name of appointee. Arr. chron. by dates of appointments.

ii. Original minutes of meetings, showing information as in entry 211. Arr. chron. by dates of meetings. No index. Typed. 9 x 7 x 4. 4 f. b., 1891-1931, N. stor. rm., attic; 1 f. b., 1932-, aud. vt.

213. [PETITIONS FOR ADJUSTMENT OF TAXES], 1894-. 1 f. d. Original petitions of real estate owners for adjustment of taxes, showing date of petition and board action, name and address of petitioner, names of adjoining real estate owners, assessed valuation of petitioner's and adjoining property, petitioner's estimated value of his property, action of board, and amount of reappraised valuation. Arr. chron. by dates of actions. No index. Hdw. 6 x 10 x 26. Assr. off.

<sup>38</sup> Acts 1919; Burns 64-1205; Baldwin 15704. Tax rule 6 (as amended July 1, 1939) of the state board of tax commissioners.

<sup>39</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>40</sup> Acts 1919; Burns 64-1204; Baldwin 15703.

## XI. COUNTY BOARD OF TAX ADJUSTMENT

## LEGAL STATUS

The county board of tax adjustment was created by an act of 1932<sup>1</sup> and was reestablished by acts of 1933<sup>2</sup> and 1937. The board consists of seven members, chosen as follows: One member of the county council, selected by the council; the mayor of the city of Martinsville or any public official of the city appointed by him; one member of the county board of education, selected by that board; and four persons who are citizens and freeholders of the county, appointed before April 15 each year by the judge of the circuit court, to hold office until April 15 of the following year. No more than four of the seven members of the board of tax adjustment may be members of the same political party. Each member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof throughout the preceding year, must reside within the county after his appointment, and must take an oath to support the state and federal constitutions and faithfully discharge the duties of his office.<sup>3</sup>

The county board of tax adjustment elects a chairman and a vice chairman from among its members; and the auditor acts as clerk, but has no vote in its proceedings. The members of the board serve without compensation. The board may employ one of the examiners of the state board of accounts to assist in the duties of the county board of tax adjustment; and the auditor pays from county funds the expenses in connection with such employment.<sup>4</sup>

For sufficient legal grounds any member of the county board of tax adjustment may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>5</sup> If any member is convicted of a felony the judgment of conviction must declare his office vacant.<sup>6</sup> A vacancy in the office

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<sup>1</sup> Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

<sup>2</sup> Acts 1933, ch. 237, sec. 4.

<sup>3</sup> Const. 1851, art. 6, secs. 4, 6; art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>4</sup> Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>5</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>6</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

of any member is filled in the manner provided by law for filling such office originally.<sup>7</sup>

Before 1932 no county officer or board performed duties analogous to those of the county board of tax adjustment, except that in 1920 the county's tax levies were reviewable by the county council.<sup>8</sup> Since 1919, with the exception of 1920, the budgets, tax levies, and tax rates of the county and the taxing units therein have been reviewable directly by the state board of tax commissioners in certain instances.<sup>9</sup> Before 1919 the sole remedy of a taxpayer to obtain a review of such budgets, tax levies, or tax rates was to apply to a court for an injunction.<sup>10</sup>

The board of tax adjustment under the act of 1932, referred to in the first paragraph of this essay, was composed of seven members, namely, the auditor, three members of the county council (selected annually by the council), and three members appointed annually by the judge of the circuit court.<sup>11</sup> The board established under the act of 1933 was composed of seven members appointed for 1-year terms. One member was appointed by the county council from the members of the council. The other six members were appointed by the judge of the circuit court, as follows: A township trustee; the mayor of a city or the president of the board of trustees of a town; a member of the board of school commissioners, board of school trustees, or board of education of a school city or school town; and three resident freeholders of the county at large, not holding any other public office by virtue of an election held or appointment made within the county, and not closely related to the executive head of any municipal corporation of which the board of tax adjustment had jurisdiction.<sup>12</sup>

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<sup>7</sup> Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>8</sup> Acts 1920 (Spec. Sess.), ch. 49, sec. 3. Interview of May 22, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

<sup>9</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1303, 64-1329, 64-1330; Baldwin 15707, 15733, 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>10</sup> Toledo & W. R. Co. v. Lafayette (1864), 22 Ind. 262; First Nat. Bank v. Greger (1901), 157 Ind. 479, 62 N. E. 21. Interview of May 22, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

<sup>11</sup> Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

<sup>12</sup> Acts 1933, ch. 237, sec. 4.

## FUNCTIONS AND RECORDS

The board of tax adjustment reviews budgets, tax levies, and tax rates adopted by the county council for the county and also those adopted by the several taxing units within the county.<sup>13</sup> The action of the board of tax adjustment is subject to review by the state board of tax commissioners.<sup>14</sup>

The board of tax adjustment meets on the 2d Monday in September each year, and from day to day thereafter as its business requires, and must complete its duties on or before October 1.<sup>15</sup> The auditor, as clerk, keeps a complete record of the proceedings of the board.<sup>16</sup>

214. RECORD OF TAX ADJUSTMENT BOARD, Sept. 16, 1935-.  
1 vol.

Minutes of meetings of board of tax adjustment, showing date and place of meeting, names of members present, subject of business, and action taken. Arr. chron. by dates of meetings. No index. Typed. 200 pp. 12 x 9 x 1½. Aud. vt.

215. TAX LEVIES, 1877-. 8 f. b., 1 carton.

Copies of tax levies established by the various taxing units, showing date of filing and period covered; names of officials, taxing units, and funds; itemized rate for each fund; and total levy. Arr. chron. by dates of filing. No index. Hdw. F. b., 9 x 7 x 4; carton, 18 x 12 x 10. 8 f. b., 1877-1930, N. stor. rm., attic; 1 carton, 1931-, aud. vt.

## XII. BOARD OF FINANCE

### LEGAL STATUS

The board of finance was created by an act of 1907 and was reestablished by acts of 1935 and 1937. Ever since 1907 the board has been composed of the county commissioners of Morgan County, with the county auditor serving as secretary.<sup>1</sup>

<sup>13</sup> Acts 1899; Burns 26-515; Baldwin 5379. Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

<sup>14</sup> Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

<sup>15</sup> Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

<sup>16</sup> Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>1</sup> Acts 1907, ch. 222, sec. 6 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, secs. 7, 43 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1937; Burns, 1939 suppl., 61-629, 61-663; Baldwin, 1937 suppl., 13844-50, 13844-84. For laws concerning eligibility, oath, and removal of these officers, see the essays entitled "Auditor" and "Board of Commissioners."

The county auditor and the county commissioners receive no compensation for their services as secretary and members, respectively, of the board of finance. From 1907 to 1932, and in 1935 and 1936, the auditor received \$50 per year.<sup>2</sup>

Before 1907 no county officer or board performed duties analogous to those of the board of finance.<sup>3</sup>

#### FUNCTIONS AND RECORDS

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.<sup>4</sup> It designates the banks and trust companies to serve as depositories for county funds,<sup>5</sup> and for all fees and funds received by the clerk of the circuit court by virtue of his office.<sup>6</sup> It may revoke the commission of any depository at any time.<sup>7</sup> In the name of "The Board of Finance of Morgan County," the board may sue and be sued in any action in any court of competent jurisdiction.<sup>8</sup>

The board of finance holds an annual meeting on the 3d Monday in January, at which it elects its president;<sup>9</sup> and holds a biennial meeting on the 3d Monday in February, in the odd-numbered years, at which it considers proposals and designates depositories for the ensuing 2-year period.<sup>10</sup> The board holds sessions whenever necessary to discharge its duties and accomplish the purposes of the laws governing it. A majority of the members constitutes a quorum for the transaction of business. All meetings are open to the public.<sup>11</sup>

The board keeps as permanent records the depositories' monthly statements of deposits.<sup>12</sup> The auditor, as secretary

<sup>2</sup> Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

<sup>3</sup> Interview of May 31, 1939 with E. P. Brennan, state examiner.

<sup>4</sup> Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

Defunct depositories. *Opinions of the Attorney General of Indiana, 1939*, p. 247.

<sup>5</sup> Acts 1937; Burns, 1939 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

<sup>6</sup> Acts 1937; Burns, 1939 suppl., 61-673; Baldwin, 1937 suppl., 1438-1.

<sup>7</sup> Acts 1937; Burns, 1939 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

<sup>8</sup> Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

<sup>9</sup> *Ibid.*

<sup>10</sup> Acts 1937; Burns, 1939 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

<sup>11</sup> Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

<sup>12</sup> Acts 1937; Burns, 1939 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

of the board of finance,<sup>13</sup> keeps a record of its proceedings. All records of the board are subject to public inspection.<sup>14</sup>

Records of monthly statements of deposits, however, were not found in Morgan County.

216. RECORD OF COUNTY BOARD OF FINANCE, 1907-. 1 vol. Minutes of meetings of board of finance, showing date and place of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by dates of meetings. No index. Hdw. and typed. 292 pp. 18 x 12 x 2½. Aud. vt.

### XIII. COUNTY SCHOOL FUND BOARD

#### LEGAL STATUS

The county school fund board exists under the mandatory provisions of an act of 1935. The board is composed of the county auditor, the clerk of the circuit court, and one member appointed by the judge of the circuit court for a 2-year term. No more than two members of the board may be adherents of the same political party.<sup>1</sup> The appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof throughout the preceding year, must reside within the county after his appointment,<sup>2</sup> and must take an oath to support the state and federal constitutions and faithfully discharge his duties.<sup>3</sup>

The appointed member of the county school fund board receives, as compensation, \$2 for each loan made by the board, which amount is taxed as a part of the costs and is paid by the borrower. The auditor and the clerk of the circuit court receive no compensation, in addition to their regular salaries for their services on the county school fund board.<sup>4</sup>

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<sup>1</sup><sup>3</sup> Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

<sup>1</sup><sup>4</sup> Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

<sup>1</sup> Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

<sup>2</sup> Const. 1851, art. 6, secs. 4, 6.

<sup>3</sup> *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

For the qualifications and oath of the ex officio members, See the essays entitled "Auditor" and "Clerk of the Circuit Court."

<sup>4</sup> 1 Rev. Stat. 1852, ch. 98, sec. 69. Acts 1853, ch. 106, sec. 5. Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

For sufficient legal grounds any member of the county school fund board may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>5</sup> If any member is convicted of a felony the judgment of conviction must declare his office vacant.<sup>6</sup> The judge of the circuit court fills the vacancy as to the member appointed by him.<sup>7</sup> Any vacancy in the office of the other members is filled by replacement in the office of the county auditor or clerk of the circuit court, as the case may be, the membership in the county school fund board being an incident to such office.<sup>8</sup>

From the organization of the county until 1824 school lands (section 16 in each township) were leased by a trustee of the school sections, appointed by the board of commissioners. From 1824 until 1829 such lands were leased by three trustees of the school section, elected for 3-year terms by the voters of the township.<sup>9</sup> From 1822 until 1853 the public seminary funds of the county were in custody of a "trustee of public seminary" (appointed by the Governor from 1822 to 1824, and appointed by the board of commissioners after 1824).<sup>10</sup> From 1829 to 1849 loans from the school funds were made by the county school commissioner, elected for a 3-year term by the voters of the county. The school commissioner was a financial agent of the county for the management of school funds and the lands belonging thereto.<sup>11</sup> In 1849 this office was abolished and the duties thereof were divided between the auditor and the treasurer, under the direction of

<sup>5</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. McComas v. Krug (1879), 81 Ind. 327 (intoxication).

<sup>6</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>7</sup> Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

<sup>8</sup> See the essays entitled "Auditor" and "Clerk of the Circuit Court."

<sup>9</sup> Acts 1816-17, ch. 12, secs. 1-5. Acts 1817-18 (general), ch. 49, secs. 1-5. Rev. Laws 1824, ch. 97, sec. 1.

<sup>10</sup> Const. 1816, art. 9, sec. 1. Acts 1817-18 (general), ch. 72, sec. 1. Rev. Laws 1824, ch. 22, secs. 2, 3. Rev. Laws 1831, ch. 20, sec. 25. Rev. Stat. 1838, ch. 21, sec. 25. Rev. Stat. 1843, ch. 14, sec. 31. 1 Rev. Stat. 1852, ch. 97.

<sup>11</sup> Acts 1828-29, ch. 84, secs. 8, 15. Rev. Laws 1831, ch. 86, secs. 6-52. Acts 1832-33, ch. 70, sec. 3. Rev. Stat. 1838, ch. 94 (2), secs. 1-16. Rev. Stat. 1843, ch. 4, secs. 11, 20; ch. 13, secs. 106-108, 193, 246, 247; ch. 15, secs. 85-87, 97.

the board of commissioners.<sup>12</sup> With the approval of the township trustees, the auditor had authority to make loans until 1935.<sup>13</sup> An act of March 12, 1935 (repealed March 9, 1937) authorized the auditor, with the approval of the board of commissioners, to employ an "administrator of the school fund loans" to make investigations, collections, and recommendations under the supervision of the auditor.<sup>14</sup>

#### FUNCTIONS AND RECORDS

The school funds held by the county in trust for the purpose of making loans thereon are kept by the auditor in three accounts, to wit: The "common school fund," the "Congressional Township school fund," and the "permanent endowment fund of the Indiana University." These trust funds are loaned by the county school fund board. The county is held liable for both principal and interest. The interest on the common school fund and the Congressional Township school fund is paid into the state treasury and is distributed semi-annually among the several counties on the basis of average daily attendance of school children therein. The interest on the permanent endowment fund of Indiana University is paid to the state treasurer who in turn pays it to the trustees of Indiana University.<sup>15</sup>

All loans made by the county school fund board (except those made to the county) must be secured by first mortgages on real estate. The applicant for a loan must furnish the necessary title papers and abstract of title; must make an

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<sup>12</sup> Acts 1848-49 (general), ch. 116, sec. 4. Acts 1851-52, ch. 67, secs. 1, 2. 1 Rev. Stat. 1852, ch. 98, secs. 133-137. Acts 1865, ch. 1, sec. 54.

<sup>13</sup> 1 Rev. Stat. 1852, ch. 98, secs. 34, 35. Acts 1865, ch. 1, sec. 75.

<sup>14</sup> Acts 1935, ch. 273 (repealed by Acts 1937, ch. 153).

<sup>15</sup> Const. 1851, art. 8, secs. 2, 7. Acts 1865; Burns 28-101, 28-104, 28-105; Baldwin 6499, 6499-1, 6511. Acts 1907; Burns 28-102; Baldwin 6500. Acts 1865, 1893, 1892 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490. Board of County Comrs. v. State *ex rel.* Hoard (1885), 103 Ind. 497, 3 N. E. 165; Board of County Comrs. v. State *ex rel.* Baldwin (1886), 116 Ind. 329, 19 N. E. 173; Board of County Comrs. v. State *ex rel.* Michener (1889), 120 Ind. 442, 22 N. E. 339; Board of County Comrs. v. State *ex rel.* Michener (1890), 122 Ind. 333, 24 N. E. 347; State *ex rel.* Michener v. Board of County Comrs. (1892), 5 Ind. App. 220, 32 N. E. 92.

Permanent endowment fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. Fisher v. Brower (1902), 159 Ind. 139, 64 N. E. 614.

The sources of the funds held in trust for school purposes are discussed under the section entitled "Education" in the essay entitled "Governmental Organization and Records System."

affidavit that the abstract is a true one and that he knows of no encumbrance; and must present a certificate of the recorder and clerk of the circuit court that there is no encumbrance on the property. A title "derived from sale for taxes" cannot be accepted. The county attorney examines the title, and appraisers (annually appointed by the board of commissioners) ascertain the value of the property. The county school fund board, after considering the reports of the county attorney and appraisers, then determines whether the title and value of the property are sufficient security for the proposed loan.<sup>16</sup> Not more than \$4,000 can be loaned to any one person or company,<sup>17</sup> and the amount loaned cannot exceed one-half the last assessed valuation of the property for taxes.<sup>18</sup> The interest rate on such loans (except those made to the county) is 5 percent per annum.<sup>19</sup> Loans may be made to the county, on proper authorization by the county council, for a period not exceeding 5 years,<sup>20</sup> and the rate of interest thereon is 6 percent per annum.<sup>21</sup>

The mortgage must specify whether it belongs to the common school fund, to the permanent endowment fund of Indiana University, or to the Congressional Township school fund, and, if the latter, the particular township or townships whose trust funds are loaned.<sup>22</sup> The auditor must immediately deliver the mortgage to the recorder for recording, and must deduct from the loan the amount of the recording fee.<sup>23</sup> Payments on these loans are made to the treasurer; and his receipt is filed with the auditor, who gives the payer a quietus therefor.<sup>24</sup> The auditor may accept, at face value, bonds of the Home Owners Loan Corporation or Federal Farm Mortgage Corporation (agencies of the United States) in payment of these loans.<sup>25</sup> The auditor

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<sup>16</sup> Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558. Acts 1881 (Spec. Sess.); Burns 28-210; Baldwin 6580. Acts 1865, 1885 (Spec. Sess.); Burns 28-211 to 28-213; Baldwin 6562, 6559, 6560.

<sup>17</sup> Acts 1901; Burns 28-220; Baldwin 6564.

<sup>18</sup> Acts 1901, 1903, 1923; Burns 28-221; Baldwin 6565.

<sup>19</sup> Acts 1933; Burns 28-215; Baldwin 6574.

<sup>20</sup> Acts 1901; Burns 28-201, 28-202; Baldwin 6568, 6569.

<sup>21</sup> Acts 1901; Burns 28-204; Baldwin 6571.

<sup>22</sup> Acts 1865; Burns 28-230 to 28-232; Baldwin 6587 to 6589.

<sup>23</sup> Acts 1865; Burns 28-233; Baldwin 6583.

<sup>24</sup> Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

<sup>25</sup> Acts 1935; Burns, 1939 suppl., 28-268; Baldwin, 1935 suppl., 6572-1.

forecloses or otherwise enforces the defaulted mortgages.<sup>26</sup> Whenever land acquired by the county through default on such loans cannot be sold by the auditor for an amount sufficient to cover the loan, the interest thereon, and expenses in connection therewith, the county may pay the loan, accept the land, and take possession thereof.<sup>27</sup>

Whenever more than \$5,000 of the principal of any one of these funds remains unloaned in the county for 6 months, the county auditor must notify the auditor of state, and the unloaned moneys may be transferred to another county.<sup>28</sup>

The auditor and treasurer make annual reports to the board of commissioners showing the condition and activity of these school funds. The board of commissioners examines the reports, makes a written report of such examination, enters it of record, and transmits copies (signed by the auditor, treasurer, and county commissioners) to the state superintendent of public instruction and the auditor of state.<sup>29</sup> Where the whole or part of the school funds of the county have been loaned, the auditor apportions to each Congressional Township a sufficient number of mortgages to cover the principal of its Congressional Township school fund.<sup>30</sup> A "miscellaneous school fund account" with the Congressional Township school fund may be kept by the auditor to enable him to aggregate small sums of available trust funds to be used for one loan. In his reports he shows fully the distribution of all school funds.<sup>31</sup>

The auditor makes and keeps complete records of all loans made by the county school fund board, showing all payments and proceedings thereon.<sup>32</sup> The record entries for

<sup>26</sup> Rev. Stat. 1843, ch. 13, sec. 96, p. 252. Acts 1855, ch. 86, sec. 86. Acts 1865, 1885 (Spec. Sess.), 1889, 1933; Burns 28-240 to 28-244, 28-246 to 28-249; Baldwin 6586, 6585, 6595 to 9597, 6599 to 6601, 6594. Webb v. Moore (1865), 25 Ind. 4; Key v. Ostrander (1867), 29 Ind. 1; Bonnell v. Ray (1880), 71 Ind. 141; Willson v. Brown (1882), 82 Ind. 471; Benefiel v. Aughe (1884), 93 Ind. 401; Shannon v. Hay (1886), 106 Ind. 589, 7 N. E. 376; Windstandley v. Crim (1889), 117 Ind. 328, 20 N. E. 833; Haynes v. Cox (1889), 118 Ind. 184, 20 N. E. 758; Work v. State *ex rel.* Hoiland (1889), 120 Ind. 119, 22 N. E. 127; State *ex rel.* Longfellow v. Wimer (1906), 166 Ind. 530, 77 N. E. 1078.

<sup>27</sup> Acts 1899; Burns 28-250 to 28-256; Baldwin 6602 to 6608.

<sup>28</sup> Acts 1901; Burns 28-206; Baldwin 6573.

<sup>29</sup> Acts 1855, ch. 86, secs. 88, 95. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

<sup>30</sup> Acts 1865; Burns 28-263; Baldwin 6615.

<sup>31</sup> Acts 1879; Burns 28-264 to 28-266; Baldwin 6616 to 6618.

<sup>32</sup> Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573. Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

loans to counties are similar to those made for loans to private individuals.<sup>33</sup> Once each quarter the auditor publishes in a local newspaper a statement of the amount of school funds unloaned.<sup>34</sup>

#### SCHOOL FUNDS

(See also entries, 83, 250-256, 289-291)

217. REGISTER OF SCHOOL FUND LOANS, 1855-. 7 vols.

Record of school fund mortgage loans, showing date, number, nature, and amount of loan; location, description, and appraised valuation of land and improvements; assessed valuation; names of fund, mortgagor, and appraisers; amount of insurance; dates and amounts of principal and interest payments; date of satisfaction or foreclosure; and volume and page reference to School Fund Mortgage Record, entry 83. Arr. chron. by dates of mortgages. Indexed alph. by names of mortgagors. Hdw. 532 pp. 16 x 12 x 3. Aud. vt.

218. SCHOOL FUND LOANS, 1906-. 12 f. b.

Original documents filed to secure school fund loans, including:

- i. Abstracts of Titles, entry 219.
- ii. Insurance policies covering insurance on property mortgaged to secure school fund loans, showing dates of policy and expiration, names of insurance company and property owner, amounts of insurance and premium, location and description of property, and conditions of policy.
- iii. Original mortgages executed to secure school fund loans, showing information as in entry 83.

Arr. alph. by names of mortgagors. No index. Typed. 12 x 6 x 18. Aud. vt.

219. ABSTRACTS OF TITLES, 1876-86. 1 f. d. 1906- in School Fund Loans, entry 218i.

Abstracts of title to property mortgaged to secure school fund loans, showing dates of abstract and filing, names of property owner and abstractor, location and description of property, continuous ownership from U. S. Government grant to date of loan, and all deeds, mortgages, and liens. Arr. chron. by dates of filing. No index. Hdw. and typed. 9 x 7 x 4. N. stor. rm., attic.

<sup>33</sup> Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573.

<sup>34</sup> Acts 1883, ch. 58, sec. 1. Acts 1899, ch. 95, sec. 1. Acts 1907; Burns 28-207, 28-208; Baldwin 6556, 6557. Board of County Comrs. v. Leslie (1878), 63 Ind. 492.

220. INVENTORY OF TRUST OR SCHOOL FUNDS, 1908-. 1 vol.  
(1).

Inventory of trust and school fund loans, showing date of inventory; date, number, and amount of loan; name of fund; unpaid balance of principal and interest; dates interest due and paid; amount of loans represented by forfeited land or foreclosed loans; and volume and page reference to Register of School Fund Loans, entry 217. Arr. num. by loan nos. No index. Hdw. 241 pp. 16 x 16 x 2. Aud. vt.

221. RECORD OF CONDITION & DISTRIBUTION OF SCHOOL FUNDS,  
1912. 1 vol. (1).

Record of condition, distribution, and readjustment of school funds, showing date of balance, name of fund, amount held in trust, loans and certificates in force, cash in treasury, amount due from county, loans paid, losses paid by county, fines and forfeitures, damages, amount of Congressional school fund transferred to and from other counties, miscellaneous sources and total receipts, loans made, loans absorbed by certificates of purchase, losses sustained by county, and balance. Arr. chron. by dates of balances. No index. Hdw. 250 pp. 18 x 22 x 2. S. stor. rm., attic.

222. RECORD OF SCHOOL FUND INTEREST CONTRACTS, 1933-.  
1 vol.

Record of contracts for payment of delinquent school fund interest under a moratorium plan, showing dates and amounts of contracts, installments, and payments; name and address of mortgagor; numbers of contract, loan and treasurer's receipt; name of fund; and volume and page reference to Register of School Fund Loans, entry 217. Arr. chron. by dates of contracts. Indexed alph. by names of mortgagors. Hdw. 532 pp. 17 x 11 x 3. Aud. vt.

#### XIV. TREASURER

##### LEGAL STATUS

The office of treasurer was created by an act of 1818; was reestablished by acts of 1824, 1831, 1838, 1841, 1843, and the Constitution of 1851; and has existed in Morgan County since 1822. The treasurer is elected for a 2-year term by the voters of the county.<sup>1</sup> He is commissioned by

<sup>1</sup> Const. 1851, art. 6, sec. 2. *Gemmer v. State ex rel. Stephens* (1904), 163 Ind. 150, 71 N.E. 478. See footnotes 21-27 herein.

the Governor of Indiana<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> No person is eligible to hold the office more than 4 years in any 6-year period.<sup>4</sup> The treasurer must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>5</sup> must reside within the county after his election, must not hold any other lucrative office,<sup>6</sup> and must not practice law.<sup>7</sup> He must post an official bond, to be approved by the board of commissioners and filed with the clerk of the circuit court. The bond must be in an amount not less than the amount of money which may come into his hands at any time during his term, as determined by the board.<sup>8</sup> The treasurer must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>9</sup>

The treasurer receives a regular salary of \$1,840 per year. In addition to his salary, he receives, as compensation for himself, 6 percent of all delinquent personal property taxes collected by him, plus a "demand fee" of 50 cents on each collection resulting from personal demand. From 1919 until 1933 he also received \$5 per day for each day actually served as a member of the board of review of Morgan County.<sup>10</sup>

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<sup>2</sup> Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 4, sec. 56. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const. 1851, art. 15, sec. 3.

<sup>4</sup> *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

<sup>5</sup> *Ibid.*, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

<sup>6</sup> Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, secs. 61, 75.

<sup>7</sup> Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

<sup>8</sup> Acts 1816-17, ch. 17, sec. 2. Acts 1817-18 (general), ch. 44, sec. 2. Rev. Laws 1824, ch. 23, sec. 1; ch. 86, secs. 18, 27. Rev. Laws 1831, ch. 21, sec. 1; ch. 81, secs. 17, 19. Rev. Stat. 1843, ch. 4, secs. 88, 92-100; ch. 27, secs. 71-73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. *Pepper v. State ex rel. Harvey* (1864), 22 Ind. 399.

<sup>9</sup> Const. 1851, art. 15, sec. 4. Rev. Laws 1824, ch. 86, sec. 18. Rev. Laws 1831, ch. 81, sec. 17. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81, 83, 84, 92; ch. 7, secs. 72, 73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>10</sup> Acts 1816-17, ch. 17, sec. 12. Acts 1817-18 (general), ch. 44, sec. 12. Rev. Laws 1824, ch. 23, sec. 7; ch. 86, sec. 34. Rev. Laws 1831, ch. 21, sec. 5; ch. 81, sec. 40. Rev. Stat. 1843, ch. 7, sec. 90; ch. 12, secs. 59, 71. Acts 1871, ch. 17, secs. 29, 30. Acts 1933; Burns 49-1001, 49-1004, 49-1016; Baldwin 7531, 7534, 7546. Acts 1933, 1937; Burns, 1939 suppl., 49-1006; Baldwin, 1937 suppl.,

For sufficient legal grounds the treasurer may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>11</sup> If the treasurer is convicted of a felony the judgment of conviction must declare his office vacant.<sup>12</sup> If the treasurer becomes officially delinquent and a suit is commenced on his official bond, he may be removed from office by the board of commissioners,<sup>13</sup> but such removal is subject to review by the circuit court.<sup>14</sup>

Any vacancy in the office of treasurer is filled through appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.<sup>15</sup>

The treasurer may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.<sup>16</sup> The treasurer may, at his own expense, employ other persons to collect delinquent personal property taxes by personal demand.<sup>17</sup> The treasurer may require the deputy to give bond.<sup>18</sup> The

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<sup>7536.</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. Town of Paoli v. Charles (1905), 164 Ind. 690, 74 N. E. 508. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

<sup>11</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1816-17, ch. 17, sec. 3. Acts 1817-18 (general), ch. 44, sec. 3. Rev. Laws 1824, ch. 23, sec. 2. Rev. Laws 1831, ch. 21, sec. 6. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>12</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>13</sup> Rev. Stat. 1843, ch. 7, sec. 87. 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

<sup>14</sup> 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277.

<sup>15</sup> Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 17, sec. 3. Acts 1817-18 (general), ch. 44, sec. 3. Rev. Laws 1824, ch. 86, sec. 30. Rev. Laws 1831, ch. 81, sec. 37. Rev. Stat. 1843, ch. 4, secs. 136, 139, 160, 162, 163, 168, 169; ch. 7, secs. 74, 87. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Donglass v. State ex rel. Wright* (1869), 31 Ind. 429; *Beale v. State ex rel. Gray* (1874), 49 Ind. 41; *Weaver v. State ex rel. Sims* (1899), 152 Ind. 479, 53 N. E. 450. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>16</sup> Rev. Laws 1831, ch. 81, secs. 17, 37. Rev. Stat. 1843, ch. 12, sec. 153. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

<sup>17</sup> Acts 1933, 1937; Burns, 1939 suppl., 49-1006; Baldwin, 1937 suppl., 7536.

<sup>18</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

deputy must take the oath required of the treasurer, may perform all the official duties of the treasurer, and is subject to the same regulations and penalties.<sup>19</sup> The treasurer may remove such deputy and assistants at any time, and is responsible for their official acts.<sup>20</sup>

From the organization of Morgan County in 1822<sup>21</sup> until 1841 a county treasurer was annually appointed by the board doing county business.<sup>22</sup> He received and disbursed county funds; received taxes collected by the sheriff (1822 to 1824) and tax collector (1824 to 1841); collected the fees charged for the licensing of taverns, shows, and vending of foreign merchandise; kept a separate account of receipts from fines, to be used to support county seminaries; and made annual settlements with the board.<sup>23</sup> Before 1824 the sheriff served as county tax collector;<sup>24</sup> and from 1824 to 1841 a county tax collector was appointed annually by the board.<sup>25</sup> The tax collector collected taxes (other than the license fees aforesaid); conducted tax sales; issued tax sale certificates and tax deeds; paid all collected funds over to the county treasurer and state treasurer; filed with the clerk of the circuit court a report concerning the sale of lands for delinquent taxes; and made and delivered to the clerk an alphabetical list of all white male persons 21 years of age or over residing

<sup>19</sup> Rev. Stat. 1843, ch. 4, sec. 85. 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. Lucas v. Shepherd (1861), 16 Ind. 368.

<sup>20</sup> Rev. Stat. 1843, ch. 7, sec. 88; ch. 12, secs. 82, 153. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>21</sup> Acts 1821-22, ch. 24, sec. 1.

<sup>22</sup> Acts 1816-17, ch. 17, secs. 1, 2. Acts 1817-18 (general), ch. 44, secs. 1, 2. Rev. Laws 1824, ch. 23, sec. 1. Rev. Laws 1831, ch. 21, sec. 1. Rev. Stat. 1838, ch. 22, sec. 1.

<sup>23</sup> Acts 1816-17, ch. 8, sec. 22; ch. 10, sec. 13; ch. 17, secs. 1-11; ch. 19, secs. 7, 13, 15; ch. 23, sec. 5; ch. 27, sec. 1; ch. 60, sec. 23. Acts 1817-18 (special), ch. 2, sec. 1; ch. 4, sec. 1; ch. 36, sec. 2. Acts 1817-18 (general), ch. 4, sec. 3; ch. 13, sec. 30; ch. 14, secs. 4, 25; ch. 32, sec. 9; ch. 42, secs. 3, 12, 14, 18, 22, 23, 25; ch. 43, sec. 21; ch. 44, secs. 1-11; ch. 47, sec. 2; ch. 62, secs. 2, 3; ch. 72, sec. 2; ch. 77, sec. 5; ch. 79, sec. 1. Rev. Laws 1824, ch. 23, secs. 1-10; ch. 86, secs. 24, 25, 32, 36, 37. Rev. Laws 1831, ch. 20, secs. 15, 17; ch. 21, secs. 1-10; ch. 81, secs. 14, 29, 31, 33, 39, 45, 46, 50. Rev. Stat. 1838, ch. 21, secs. 15, 17; ch. 22.

<sup>24</sup> Acts 1816-17, ch. 8, sec. 23; ch. 19, secs. 7, 9-15; ch. 23, sec. 3; ch. 25, sec. 1. Acts 1817-18 (special), ch. 17, sec. 1; ch. 36, sec. 3. Acts 1817-18 (general), ch. 42, secs. 11, 14-19, 21, 23-27; ch. 44, secs. 4-11; ch. 72, secs. 2, 3; ch. 77, sec. 3; ch. 79, sec. 1.

<sup>25</sup> Rev. Laws 1824, ch. 86, secs. 18, 42. Rev. Laws 1831, ch. 81, secs. 17, 18.

in the county.<sup>26</sup> In 1841 the office of county tax collector was abolished and the duties of that office were transferred to the county treasurer. From 1841 until the adoption of the Constitution of 1851, the treasurer was elected for a 3-year term by the voters of the county.<sup>27</sup>

#### FUNCTIONS AND RECORDS

The treasurer receives all moneys coming to the county, issues official receipts therefor, and disburses the same on warrants issued by the auditor. He countersigns each warrant and stamps thereon the name of the depository by which it is payable. He may pay a warrant out of funds in his office or require it to be presented to the depository for payment.<sup>28</sup> He must deduct any delinquent taxes owing by the payee.<sup>29</sup> If no funds are available to pay a warrant when presented for payment, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment. When funds become available he publishes a call for redemption of such warrants.<sup>30</sup>

The treasurer collects property taxes and poll taxes for the state and county and also for townships, cities, and towns in the county, as shown on the tax duplicate delivered to him by the auditor;<sup>31</sup> reports omitted polls and property to the auditor for assessment;<sup>32</sup> keeps an "insolvent record" of dropped taxes (prepared by the auditor);<sup>33</sup> keeps auditor's

<sup>26</sup> Rev. Laws 1824, ch. 23, secs. 6, 8, 11, 13; ch. 86, secs. 11-16, 19-28, 32, 34-37, 39-41, 45. Acts 1825, ch. 9, sec. 1. Acts 1829-30, ch. 9, sec. 5. Rev. Laws 1831, ch. 20, secs. 15, 18, 19; ch. 21, secs. 2-4, 10; ch. 81, secs. 14, 17-46, 51. Rev. Stat. 1838, ch. 81, secs. 18, 19.

<sup>27</sup> Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 4, secs. 1, 13-22. Rev. Stat. 1843, ch. 4, secs. 2, 18; ch. 7, secs. 70, 75-91; ch. 12, secs. 53-180. Ham v. State *ex rel.* Williams (1844), 7 Blackford 344.

<sup>28</sup> Rev. Stat. 1843, ch. 7, secs. 76-84, 91. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3103, 49-3104, 49-3111; Baldwin 5550, 5551, 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 18844-48. State *ex rel.* Zable v. Benson (1880), 70 Ind. 481.

<sup>29</sup> Acts 1919; Burns 64-1506; Baldwin 15768.

<sup>30</sup> Acts 1869; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

<sup>31</sup> Rev. Stat. 1843, ch. 7, sec. 86; ch. 12, secs. 53-55, 62, 67, 174. Acts 1897, ch. 54., sec. 1. Acts 1905; Burns 48-6701, 48-6702, 48-6705; Baldwin 11511 to 11513. Acts 1919; Burns 64-1408, 64-1502; Baldwin 15745, 15748. Standard Oil Co. v. Bretz (1884), 98 Ind. 231.

<sup>32</sup> Acts 1919; Burns 64-2102; Baldwin 15803.

<sup>33</sup> Acts 1919; Burns 64-2801; Baldwin 15684.

certificates correcting the tax duplicate;<sup>34</sup> sells real estate and personal property at public auction for delinquent taxes;<sup>35</sup> collects corporate taxes,<sup>36</sup> inheritance taxes,<sup>37</sup> and the excise tax on shares of stock and deposits of banks, trust companies, and loan associations;<sup>38</sup> sells intangible tax stamps for the state board of tax commissioners;<sup>39</sup> and collects school fund loans<sup>40</sup> and special assessment for public improvements.<sup>41</sup> Records of these funds and transactions are kept by him.

All public funds paid into the county treasury must be deposited by the treasurer daily in one or more depositories designated by the board of finance. The treasurer makes monthly reports to the board of finance showing the balance of funds at the end of the previous month—consistent with the statements furnished to the board and treasurer by the depository;<sup>42</sup> makes quarterly reports to the board of commissioners and auditor showing the amount of money in the county treasury;<sup>43</sup> makes monthly reports to the auditor showing the total amount of cash payments received by him during the month and the respective accounts on which they were applied;<sup>44</sup> makes annual settlements with the board of commissioners in January;<sup>45</sup> makes semiannual settlements for

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<sup>34</sup> Acts 1919, 1925; Burns 64-1407; Baldwin 15744.

<sup>35</sup> Rev. Stat. 1843, ch. 7, sec. 89; ch. 12, secs. 56-67, 83-126. Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Pay v. Shanks (1877), 56 Ind. 554.

<sup>36</sup> Acts 1919; Burns 64-1801; Baldwin 15783.

<sup>37</sup> Acts 1931; Burns 6-2413; Baldwin 15951.

<sup>38</sup> Acts 1933; Burns 64-804, 64-807, 64-810, 64-827; Baldwin 15585, 15588, 15591, 15608.

<sup>39</sup> Acts 1933; Burns 64-927; Baldwin 15925.

<sup>40</sup> Acts 1865; Burns 28-235; Baldwin 6592.

<sup>41</sup> Drainage. Acts 1933; Burns 27-134; Baldwin 5770.

Levees. Acts 1907, 1927, 1933; Burns 27-805; Baldwin 10214.

Roads. Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1439, 36-1440; Baldwin 8942, 8943.

<sup>42</sup> Acts 1907; Burns 61-610; Baldwin 13814. Acts 1937; Burns, 1939 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

<sup>43</sup> Acts 1871, ch. 17, secs. 23, 31, 38. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

Wolfe v. State *ex rel.* Kennard (1883), 90 Ind. 16.

<sup>44</sup> Acts 1871, ch. 17, sec. 31. Acts 1919; Burns 64-2101; Baldwin 15802.

<sup>45</sup> Rev. Stat. 1843, ch. 7, sec. 90. Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5663.

taxes with the county auditor in May and November,<sup>46</sup> and in accordance therewith pays to the state treasurer in June and December all money due for state purposes;<sup>47</sup> and also makes payments to the state treasurer at other times in accordance with official requests therefor.<sup>48</sup> He makes quarterly reports to the auditor showing specifically the amount of fees collected;<sup>49</sup> and deposits quarterly with the auditor all redeemed warrants.<sup>50</sup>

The treasurer must keep his office, books, and papers in a fireproof building (if available) and his office must be open for transaction of business during business hours.<sup>51</sup> He must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be open to public inspection.<sup>52</sup> He keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds.<sup>53</sup>

Forms for the following record books have been prescribed for county treasurers by the state board of accounts: Daily balance of cash and depositories; record of warrants by depositories; ledger of receipts and disbursements; register of taxes collected; record of bids for bonds; and daily inventory of intangible tax stamps. This board has prescribed blank forms of monthly reports and various receipts.<sup>54</sup>

The county treasurer is a member of the board of review, which meets annually for the purpose of reviewing property tax valuations and allowing tax exemptions.<sup>55</sup>

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<sup>46</sup> Rev. Stat. 1843, ch. 12, secs. 68, 154. Acts 1919; Burns 64-2501; Baldwin 15850.

<sup>47</sup> Rev. Stat. 1843, ch. 12, secs. 68, 69. Acts 1919; Burns 64-2503, 64-2504; Baldwin 15852, 15853.

<sup>48</sup> Acts 1859, 1861; Burns 49-1813; Baldwin 15059. Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

<sup>49</sup> Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

<sup>50</sup> Rev. Stat. 1843, ch. 7, sec. 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

<sup>51</sup> Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3106; Baldwin 5553. Acts 1853; Burns 49-3107, 49-3108; Baldwin 5556, 5557.

<sup>52</sup> Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

<sup>53</sup> Acts 1841-42 (general), ch. 4, sec. 5. Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

<sup>54</sup> Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>55</sup> See the essay entitled "County Board of Review."

## TAXATION

(See also entries 292-310)

## REAL, PERSONAL, AND POLL

223. TAX DUPLICATE [and Delinquent List], 1877-. 145 vols.

Record compiled by auditor of taxes payable and amounts returned delinquent, showing installment dates; names of taxpayer and taxing unit; duplicate number; location, description, and assessed valuation of lands; lots, and improvements thereon; value of personal property; number of polls; amounts of special assessments and exemptions; and date and amount of payment. This is a combination of two records formerly kept separately: Tax Duplicate, entry 224; Delinquent List, entry 225. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 400 pp. 18 x 24 x 3½. 112 vols., 1877-1929, N. stor. rm., attic; 33 vols., 1930-, treas. off.

224. TAX DUPLICATE, 1842-76. 56 vols. 1877- in Tax Duplicate [and Delinquent List], entry 223.

Record compiled by auditor of taxes payable, showing installment date; names of property owner and taxing unit; duplicate number; location, description, and assessed valuation of lands; lots, and improvements; value of personal property; number of polls; special assessments; amount of exemptions; and date and amount of payment. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 300 pp. 18 x 16 x 3. N. stor. rm., attic.

225. DELINQUENT LIST, 1875-76. 5 vols. 1877- in Tax Duplicate [and Delinquent List], entry 223.

Record of delinquent taxes, showing duplicate number, names of property owner and taxing unit, location and description of property, and amounts of delinquency, interest, and penalty. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 300 pp. 18 x 12 x 3. N. stor. rm., attic.

226. INSOLVENT RECORD, 1852-. 5 vols. Title varies:  
Record of Insolvent and Discharged Taxes, 1852-82,  
1 vol.

Record of delinquent poll and personal taxes considered uncollectible and removed from tax duplicates, showing years of delinquency and removal, names of property owner and taxing units, amount of delinquency, duplicate number, and reason for removal. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 200 pp. 16 x 11 x 2. 3 vols., 1852-1913, S. stor. rm., attic; 2 vols., 1914-, aud. vt.

## 227. MORATORIUM TAX DUPLICATE, 1934-. 1 vol.

Record of delinquent tax payments deferred, showing date of moratorium, duplicate number, schedule of payments, names of taxpayer and taxing unit, location and description of property, and amounts of delinquency, interest, and payments. Arr. by names of taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 50 pp. 17 x 15 x 1. Treas. off.

## INHERITANCE AND INTANGIBLE

## 228. INHERITANCE TAX, 1914-. 1 bdl., 1 vol.

Copies of receipts issued for inheritance tax payments, showing dates of receipt and death of decedent; names of decedent, legatees, and payer; amounts of tax, interest or discount, and payment; and cause and receipt numbers. Arr. num. by receipt nos. No index. Hdw. Bdl., 6 x 8 x 2; vol., 300 pp. 10 x 10 x 2. 1 bdl. 1914-21, S. stor. rm., attic; 1 vol., 1922-. treas. off.

For other inheritance tax records, see entries 187-189, 288.

## 229. INTANGIBLE BANK TAX RECEIPTS, 1933-. 1 vol.

Copies of receipts issued for payment of intangible tax by banks and building and loan associations, showing date, amount and number of receipt, and name of payer. Arr. num. by receipt nos. No index. Typed. 50 pp. 17 x 8 x ½. Treas. off.

For other intangible tax records, see entry 209.

## PUBLIC IMPROVEMENTS (see also entries 22, 23, 394-396, 399-405)

## 230. DITCH DUPLICATE, 1906-. 3 vols. (1, 2; 1 vol. unlabeled).

Record of assessments for construction and repair of ditches, showing dates of assessment and payment; names of ditch and landowner; location and description of land; and amounts of assessment, payment, delinquency, and penalty. Arr. by names of ditches, thereunder alph. by names of landowners. No index. Hdw. 480 pp. 18 x 16 x 3½. 1 vol., 1906, S. stor. rm., attic; 2 vols., 1907-, treas. off.

## 231. DITCH RECEIPTS, 1906-. 20 vols.

Stubs of receipts issued for payment of ditch assessments, showing date, number, nature, and amount of receipt; and names of payer and ditch. Arr. by names of ditches, thereunder num. by receipt nos. No index. Hdw. 100 pp. 14 x 12 x 1. 8 vols., 1906-24, S. stor. rm., attic; 12 vols., 1925-, treas. off.

## 232. GRAVEL ROAD PURCHASE DUPLICATE, 1892-95. 8 vols.

Record of assessments made for the purchase of toll gravel

roads, showing date of assessment; dates payment due and paid; name of landowner and taxing unit; amounts of assessment, payments, and delinquency; and location and description of land assessed. Arr. by names of roads, thereunder alph. by names of landowners. No index. Hdw. 160 pp. 12 x 16 x 2. S. stor. rm., attic.

233. GRAVEL ROAD DUPLICATE, 1879-87. 8 vols. Discontinued.

Record of assessments for construction of free gravel roads, showing duplicate number; location, description, and assessed valuation of property; amounts of tax penalty, interest, and total; names of property owner and taxing unit; and dates of assessment and payment. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 160 pp. 12 x 16 x 2. S. stor. rm., attic.

234. ROAD TAX RECEIPTS, 1876-1916. 1 carton, 41 vols., 2 f. b. Discontinued.

Receipts issued by road supervisors to taxpayers for work performed on roads in lieu of taxes and tendered treasurer for tax payments, showing date, number, nature, and amount of receipt; names of taxpayer, taxing unit, and road supervisor; assessed valuation of real and personal property; and total. Arr. chron. by dates of receipts. No index. Hdw. Carton, 18 x 12 x 12; vol., 100 pp. 5 x 4 x ½; f. b., 7 x 4 x 9. N. stor. rm., attic.

235. REGISTER OF ROAD RECEIPTS, 1873-1910. 2 vols. Discontinued.

Record of road tax receipts, showing date, nature, and amount of receipt; and names of taxpayer and taxing unit. Arr. chron. by dates of receipts. No index. Hdw. 500 pp. 18 x 12 x 3½. S. stor. rm., attic.

#### COLLECTIONS

236. REGISTER OF TAXES COLLECTED, 1911-. 30 vols. Title varies: Treasurer's Cash Book, Taxes, 1911-24, 13 vols. 1853-1910 in Cash Book, Miscellaneous Receipts, entry 245.

Daily record of taxes collected, showing date and amount of collection, tax duplicate number, and names of taxpayer and fund. Arr. by names of taxing unit, thereunder chron. by dates of collections. No index. Hdw. 500 pp. 18 x 12 x 3. 26 vols., 1911-36, S. stor. rm., attic; 4 vols., 1937-, treas. off.

237. [DUPLICATE TAX RECEIPTS], 1899-. 986 vols., 155 bdls., 4 cartons, 86 pigeonholes.

Duplicates of receipts issued for tax payments, showing date and amount of payment, duplicate and receipt numbers, names of taxpayer and taxing unit, location and description of real property, assessed valuation of real and personal property, amounts of exemption and current or delinquent tax, and number of polls. Arr. by names of taxing units, thereunder alph. by names of taxpayers. No index. 1899-1922, hdw.; 1923-, typed. Vols., 200 pp. 12 x 11 x 2; bdls., 5 x 10 x 3; cartons, 24 x 18 x 12; pigeonholes, 9 x 9 x 9. 986 vols., 155 bdls., 4 cartons, 1899-1934, N. stor. rm., attic; 86 pigeonholes, 1935-, treas. off.

#### RECEIPTS AND DISBURSEMENTS

(See also entries 266-291)

##### GENERAL FUND

238. DAILY BALANCE OF CASH IN DEPOSITORYRIES, 1908-. 31 vols. (5 vols. dated; 1-26). Title varies: Daily Balance Record, 1908-12, 5 vols.; Treasurer's Cash and Daily Balance Record, 1913-23, 11 vols.

Record of daily cash and depository balances, showing date of balance; amount of opening and closing balance; nature and amount of receipts, disbursements, deposits, and withdrawals; and name of depository. Arr. chron. by dates of balances. No index. Hdw. 320 pp. 18 x 12 x 3. 28 vols., 1908-37, S. stor. rm., attic; 3 vols., 1938-, treas. off.

239. MONTHLY BALANCES, 1911-. 4 vols. July 1866-1910 in Ledger of Receipts and Disbursements, entry 242.

Record of monthly balances of county funds, showing date of balance; amounts of receipts, disbursements, and previous and closing balances; and total. Arr. chron. by dates of balances. No index. Hdw. 116 pp. 18 x 16 x 1½. 2 vols., 1911-June 1927, S. stor. rm., attic; 2 vols., July 1927-, treas. off.

240. TREASURER'S REGISTER OF WARRANTS AND DEPOSITORY BALANCE, 1913-. 6 vols. (1-6). Title varies: Treasurer's Register of Warrants, 1913-20, 2 vols.; Treasurer's Register of Warrants by Depositories, 1921-30, 2 vols.

Record of warrants drawn on depositories, showing date presented to treasurer; date, number, and amount of warrant; amounts of deposit and balance; name of depository; and name and number of appropriation. Arr. by names of depositories,

thereunder chron. by dates presented to treasurer. No index. Hdw. 320 pp. 17 x 16 x 3. 5 vols., 1913-34, stor. rm., attic; 1 vol., 1935-, treas. off.

241. [BANK STATEMENTS], 1914-. 1 bdl., 1 carton, 3 f. d. Monthly statements by county depositories, showing dates of statement, deposits, and withdrawals; name and address of depository; and amounts of deposits, interest, withdrawals, and opening and closing balances. Arr. chron. by dates of statements. No index. Typed. Bd1., 16 x 10 x 2; carton, 10 x 18 x 12; f. d., 8 x 10 x 24. 1 bdl., 1 carton, 1924-25, S. stor. rm., attic; 3 f. d., 1926-, treas. off.

242. LEDGER OF RECEIPTS AND DISBURSEMENTS, 1858-1910, 1925-. 11 vols. Title varies: Ledger, 1858-May 1866, 1 vol.; Condensed Ledger, June 1866-1910. 7 vols.

Record of receipts and disbursements of county funds, showing date, nature, and amount of receipt and disbursement; receipt and warrant numbers; and names of payer, payee, and fund. This is a combination of two records intercurrently kept separately: Treasurer's Record of Receipts, entry 243; Treasurer's Register of Disbursements, June 1866-1910, 1925-, entry 244. Also contains: Monthly Balances, July 1866-1910, entry 239; Cash Book, Miscellaneous Receipts, 1925-, entry 245; Register of School Fund Receipts, 1925-, entry 250; [Register of Orders, Common School Funds], Mar. 30, 1879-1910, 1925-, entry 255; and Register of Orders, School Fund [Congressional], July 1884-1910, 1925-, entry 256. Arr. by names of funds, thereunder chron. by dates of receipts and disbursements. No index. Hdw. 150 pp. 18 x 14 x 1½. 10 vols., 1858-1911, 1925-33, S. stor. rm., attic; 1 vol. 1934-, treas. vt.

243. TREASURER'S RECORD OF RECEIPTS, 1911-24. 2 vols. 1858-1910, 1925- in Ledger of Receipts and Disbursements, entry 242.

Record of receipts of county revenue, showing date, nature, number and amount of receipt; names of payer and fund; and total receipts. Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 18 x 24 x 3. S. stor. rm., attic.

244. TREASURER'S REGISTER OF DISBURSEMENTS, 1911-24. 4 vols. (1 vol. unlabeled; 1-3). Title varies: Record of Appropriations and Disbursements, 1911-13, 1 vol. 1841-July 20, 1847, May 1858-May 1866 in Journal, entry 249; June 1866-1910, 1925- in Ledger of Receipts and Disbursements, entry 242.

Record of disbursements of county funds, showing date, number,

nature, and amount of warrant; names of payee and fund; and total disbursements. Also contains: [Register of Orders, Common School Funds], entry 255; and Register of Orders, School Fund [Congressional], entry 256. Arr. chron. by dates of warrants. No index. Hdw. 240 pp. 17 x 24 x 2½. S. stor. rm., attic.

245. CASH BOOK, MISCELLANEOUS RECEIPTS, 1853-1924. 27 vols. Title varies: Register of Receipts, 1858-80, 3 vols.; Cash Book, 1881-1910, 21 vols. 1841-July 20, 1847 in Journal, entry 249; 1925 - in Ledger of Receipts and Disbursements, entry 242.

Record of receipts of county revenue, showing date, number, nature, and amount of receipt; names of payer and fund; and total receipts. Also contains: Register of Taxes Collected, 1853-1910, entry 236; and Register of School Fund Receipts, June 1853-1924, entry 250. Arr. chron. by dates of receipts. No index. Hdw. 350 pp. 18 x 15 x 2½. S. stor. rm., attic.

246. TREASURER'S CASH BOOK OF DISBURSEMENTS ON AUDITOR'S WARRANTS, 1911-24. 4 vols. (1 vol. unlabeled; 1-3). Title varies: Register of Warrants Redeemed, 1911-13. 1 vol. Discontinued.

Record of disbursements of county funds, showing date, number, and amount of warrant; date countersigned by treasurer; and names of payee, fund, and depository. Arr. chron. by dates countersigned. No index. Hdw. 320 pp. 18 x 12 x 3. S. stor. rm., attic.

247. TREASURER'S RECEIPTS, 1898-. 13 vols.

Stubs or duplicates of receipts issued for payments other than taxes on auditor's application to pay, showing information as in entry 274. Arr. num. by receipt nos. No index. Hdw. 100 pp. 16 x 10 x 1. 12 vols., 1898-1937, S. stor. rm., attic; 1 vol., 1938-, treas. off.

248. REDEMPTION RECEIPTS, May 16, 1891-June 1916. 3 vols. Stubs of receipts issued by treasurer for redemption of real estate sold for delinquent taxes, showing date, amount, and number of receipt; name of purchaser or redemptioner; and location and description of land. Arr. num. by receipt nos. No index. Hdw. 100 pp. 18 x 10 x 1. S. stor. rm., attic.

249. JOURNAL, 1841-July 20, 1847, May 1858-May 1866. 2 vols. (1 vol. unlabeled; 3).

Record of receipts and disbursements of county funds, showing date, nature, and amount of receipts and disbursements; and receipt or voucher number. This is a combination of two records later kept separately: Treasurer's Register of Disburse-

ments, entry 244; and Cash Book of Miscellaneous Receipts, entry 245. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 696 pp. 15 x 10 x 2. S. stor. rm., attic.

SCHOOL FUNDS (see also entries 83, 217-222, 289-291)

250. REGISTER OF SCHOOL FUND RECEIPTS, Oct. 1871-May 1883. 1 vol. June 1883-1924 in Cash Book Miscellaneous Receipts, entry 245; 1925- in Ledger of Receipts and Disbursements, entry 242.

Record of payments of principal and interest on common and Congressional school fund loans, showing date, number, nature, and amount of receipt; location and description of real property; and names of payer and fund. This is a combination of two records formerly kept separately: Register of Receipts of School Funds, entry 251; and Register of Receipts Cong[ressional] Township Fund, entry 252. Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 16 x 10 x 1½. S. stor. rm., attic.

251. REGISTER OF RECEIPTS OF SCHOOL FUNDS, Mar. 27, 1853-Sept. 1871. 1 vol. Oct. 1871-May 1883 in Register of School Fund Receipts, entry 250.

Record of payments of principal and interest on common school fund loans, showing date, nature, number, and amount of receipt; and names of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 16 x 10 x 1½. S. stor. rm., attic.

252. REGISTER OF RECEIPTS CONG[ressional] TOWNSHIP FUND, Nov. 19, 1855-Sept. 1871. 1 vol. Oct. 1871-May 1883 in Register of School Fund Receipts, entry 250.

Record of payments of principal and interest on Congressional school fund loans, showing date, number, nature, and amount of receipt; and names of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 14 x 10 x 1½. S. stor. rm., attic.

253. JOURNAL SCHOOL FUNDS, 1856-Oct. 1864. 1 vol. Discontinued.

Record of receipts and disbursements of common school funds, showing voucher or order number, dates and amounts of receipts and disbursements, and balance. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 250 pp. 16 x 10 x 2. S. stor. rm., attic.

254. JOURNAL CONGRESSIONAL T[ownshi]P FUND, 1856-Oct. 1864. 1 vol. Discontinued.

Record of receipts and disbursements of Congressional Township school funds, showing voucher or order number, dates and amounts of receipts and disbursements, and balance. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 200 pp. 14 x 8 x 1½. S. stor. rm., attic.

255. [REGISTER OF ORDERS, COMMON SCHOOL FUNDS], Mar. 29, 1853-Mar. 29, 1879. 1 vol. Mar. 30, 1879-1910, 1925- in Ledger of Receipts and Disbursements, entry 242; 1911-24 in Treasurer's Register of Disbursements, entry 244.

Record of orders drawn for disbursement of common school funds, showing date, number, nature, and amount of order; and name of payee. Arr. chron. by dates of orders. No index. Hdw. 200 pp. 16 x 12 x 2. S. stor. rm., attic.

256. REGISTER OF ORDERS, SCHOOL FUND [Congressional], Mar. 1853-June 1884. 1 vol. July 1884-1910, 1925- in Ledger of Receipts and Disbursements, entry 242; 1911-24 in Treasurer's Register of Disbursements, entry 244.

Record of orders drawn for disbursements of Congressional school funds, showing date, number, nature, and amount of order; and name of payee. Arr. chron. by dates of orders. No index. Hdw. 250 pp. 16 x 10 x 2. S. stor. rm., attic.

## XV. AUDITOR

### LEGAL STATUS

The office of auditor was created by an act of 1841, was reestablished by the Constitution of 1851, and has existed in Morgan County since 1841. The auditor is elected for a 4-year term by the voters of the county. Before 1851 he was elected for a 5-year term.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and holds office until his successor is elected and qualified.<sup>3</sup> No person is eligible to hold the

<sup>1</sup> Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 2, sec. 1. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. Jones v. Cavins (1853), 4 Ind. 305.

<sup>2</sup> Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

<sup>3</sup> Const. 1851, art. 15, sec. 3. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. Griebel v.

State *ex rel.* Niezer (1887), 111 Ind. 369, 12 N. E. 700.

office more than 8 years in any 12-year period.<sup>4</sup> The auditor must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>5</sup> must reside within the county after his election, must not hold any other lucrative office, and must not practice law.<sup>6</sup> He must post bond in the amount of \$10,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.<sup>7</sup> The auditor must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>8</sup>

The auditor receives a regular salary of \$2,160 per year.<sup>9</sup> In addition to his regular salary he receives \$50 per year for services rendered for the city of Martinsville; and from 1907 to 1932, and in 1935 and 1936, he also received \$50 per year for acting as secretary of the board of finance of Morgan County; and from 1919 until 1933 he also received \$5 per day for each day actually served as a member of the county board of review.<sup>10</sup> He is not entitled to retain, as compensation for himself, any fees collected by him.<sup>11</sup>

For sufficient legal grounds the auditor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by

<sup>4</sup> Const. 1851, art. 2, sec. 11; art. 6, sec. 2.

<sup>5</sup> *Ibid.*, sec. 4. State *ex rel.* Jeffries v. Kilroy (1882), 86 Ind. 118.

<sup>6</sup> Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. State v. Allen (1863), 21 Ind. 516; Wells v. State *ex rel.* Peden (1911), 175 Ind. 380, 94 N. E. 321.

<sup>7</sup> Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-303; Baldwin 5417.

<sup>8</sup> Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>9</sup> Acts 1871, ch. 17, sec. 28. Acts 1933; Burns 49-1004; Baldwin 7534.

<sup>10</sup> Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 48-1232, 49-1001, 49-1004; Baldwin 11413, 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. Board of County Comrs. v. Johnson (1891), 127 Ind. 238, 26 N. E. 821; Tucker v. State *ex rel.* Board of County Comrs. (1904), 163 Ind. 403, 71 N. E. 140; Board of County Comrs. v. Crowe (1938), 214 Ind. 437, 446 (two cases), 14 N. E. (2d) 903, 907, 15 N. E. (2d) 1016. *Opinions of the Attorney General of Indiana, 1934*, p. 313; *1936*, p. 130.

<sup>11</sup> Acts 1933; Burns 49-1005; Baldwin 7535. Workman v. State *ex rel.* Board of County Comrs. (1905), 165 Ind. 42, 73 N. E. 917.

the supreme court.<sup>12</sup> If the auditor is convicted of a felony the judgment of conviction must declare the office vacant.<sup>13</sup>

Any vacancy in the office of auditor is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), an auditor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.<sup>14</sup>

The auditor may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.<sup>15</sup> The auditor may require the deputy to give bond.<sup>16</sup> The deputy must take the oath required of the auditor, may perform all the official duties of the auditor, and is subject to the same regulations and penalties.<sup>17</sup> The auditor may remove such deputy and assistants at any time and is responsible for their official acts.<sup>18</sup>

Most of the early duties of the auditor were transferred to him from the clerk of the circuit court,<sup>19</sup> and included the clerk's previous duties as clerk of the board doing county business,<sup>20</sup> as member of the boards performing duties similar

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<sup>12</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>13</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>14</sup> Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Douglass v. State *ex rel.* Wright (1869), 31 Ind. 429. *Opinions of the Attorney General of Indiana*, 1936, p. 9. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>15</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana*, 1934, p. 256; 1937, p. 324.

<sup>16</sup> 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

<sup>17</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

<sup>18</sup> 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

<sup>19</sup> Jones v. Cavins (1853), 4 Ind. 305.

<sup>20</sup> Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

to those of the present county board of review,<sup>21</sup> and duties concerning elections,<sup>22</sup> taxation, finance, county business,<sup>23</sup> and selection of petit jurors and grand jurors.<sup>24</sup>

From 1822 to 1852 Morgan County had a county agent, appointed by the board doing county business. He performed various duties concerning county business, as required by the board, including the collection of donations for the county, purchase of land, equipment, and supplies, the sale of county property and collection of the purchase price thereof, and the making of contracts for public improvements. Originally he was appointed for an indefinite term. From 1848 until 1852 he was appointed for a 3-year term. In 1852 his office was abolished and his duties were transferred to the auditor.<sup>25</sup>

#### FUNCTIONS AND RECORDS

The auditor is the financial agent of the county and routine administration of county affairs centers in his office, through which all financial transactions are conducted.

The auditor is clerk of the board of commissioners,<sup>26</sup> the county council,<sup>27</sup> and the county board of tax adjustment;<sup>28</sup>

<sup>21</sup> Acts 1817-18 (general), ch. 42, sec. 12. Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8. Acts 1833-39 (general), ch. 14, secs. 14, 15.

<sup>22</sup> Acts 1816-17, ch. 9, secs. 12-14, 16, 19; ch. 14, sec. 4. Rev. Stat. 1838, ch. 32, secs. 18, 19. Acts 1834-35 (general), ch. 43, sec. 1. Acts 1841-42 (general), ch. 45, sec. 8. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; ch. 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

<sup>23</sup> Acts 1815, ch. 5, secs. 5, 13, 17; ch. 10, secs. 1-3. Rev. Laws 1824, ch. 23, sec. 6; ch. 86, secs. 7, 10, 11, 17, 19, 29, 36, 41. Acts 1825, ch. 49, sec. 2. Acts 1825-26, ch. 58, sec. 2. Acts 1829-30, ch. 9, sec. 1. Acts 1831-32, ch. 174, sec. 1. Acts 1834-35 (general), ch. 10, sec. 5; ch. 11, secs. 5, 18. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

<sup>24</sup> Acts 1841-42 (general), ch. 45, sec. 6. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1. These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

<sup>25</sup> Acts 1817-18 (special), ch. 1, sec. 2; ch. 2, sec. 1. Rev. Laws 1824, ch. 93, secs. 1, 2, 4, 6, 8, 9. Acts 1841-42 (general), ch. 67, sec. 2. Rev. Stat. 1843, ch. 4, sec. 48. Acts 1851-52, ch. 2.

<sup>26</sup> Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53. Acts 1855, ch. 37, sec. 1. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

<sup>27</sup> Acts 1839; Burns 26-509; Baldwin 5373.

<sup>28</sup> Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

and he is secretary of the board of finance.<sup>29</sup> He is also a member and secretary of the county board of review,<sup>30</sup> and a member of the county school fund board.<sup>31</sup> From 1841 to 1890 he was a member of the boards performing duties analogous to those of the present county board of review.<sup>32</sup> Formerly the auditor was a member of the election board under the local option liquor laws,<sup>33</sup> and was clerk of the old-age pension board.<sup>34</sup> The auditor keeps a record of all the boards of which he is clerk or secretary.

Copies of reports to the state board of accounts by its field examiners showing the results of their examinations of county offices are filed with the auditor.<sup>35</sup> Annually the auditor reports to the state examiner the financial condition of the county and the school funds charged to it.<sup>36</sup>

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report to the auditor showing the total amount of cash payments received by the treasurer during the month and the respective accounts to which such payments were applied. The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for 2 years, and the auditor enters such lists in his register of receipts and issues a quietus for the items of such lists which have been paid over to the treasurer.<sup>37</sup>

<sup>29</sup> Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

<sup>30</sup> Acts 1891, ch. 99, secs. 114, 116; Acts 1919, 1920 (Spec. Sess.); Burns 64-2101; Baldwin 15700.

<sup>31</sup> Acts 1865, 1935; Burns, 1939 suppl., 28-200; Baldwin, 1935 suppl., 6558.

<sup>32</sup> Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18. 1 Rev. Stat. 1852, ch. 6, sec. 91; ch. 35, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1877, ch. 89, sec. 1. Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

<sup>33</sup> Acts 1908 (Spec. Sess.), ch. 2, sec. 5. Acts 1911, ch. 7, sec. 5. Kunkle v. Coleman (1910), 174 Ind. 315, 92 N. E. 61.

<sup>34</sup> Acts 1933, ch. 36, secs. 2, 9, 12 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

<sup>35</sup> Acts 1909; Burns 60-211; Baldwin 13862.

<sup>36</sup> Acts 1909; Burns 60-204; Baldwin 13857.

<sup>37</sup> Acts 1841-42 (general), ch. 45, sec. 3. Acts 1871, ch. 17, secs. 20, 23, 27, 31. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

Such lists were entered in the "order book of the board of commissioners" (commonly

A copy of the annual report (accompanied by vouchers) of each township trustee to the township advisory board is filed in the auditor's office.<sup>38</sup> Annually the township trustees report to the auditor the amount of claims in the several townships for livestock, fowls, or game destroyed or damaged by dogs; and the auditor annually reports to the auditor of state the amount of all such claims remaining unpaid for lack of funds.<sup>39</sup> Quarterly each justice of the peace in the county reports to the auditor all humane fund fees collected by him.<sup>40</sup>

Formerly the board of commissioners met in the auditor's office and audited the warrants of all township trustees in the county. These warrants and the board's decision thereon were registered by the auditor in a book kept for that purpose.<sup>41</sup>

The auditor keeps records of all financial transactions of the county. He keeps a fee and cash book,<sup>42</sup> a monthly balance record, and a record of receipts, appropriations, and disbursements.<sup>43</sup> He keeps separate accounts for each specific item of appropriation by the county council<sup>44</sup> and an account current, with the treasurer, of county funds.<sup>45</sup>

Claims against the county (for consideration by the board of commissioners) are filed with the auditor and presented by him to the board of commissioners.<sup>46</sup> He makes certificates showing claimant's compliance with his contract.<sup>47</sup> He publishes all such claims and allowances thereon

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known as the commissioners' record") before the state board of accounts provided otherwise in 1909. Interview of March 7, 1940 with E. P. Brennan, state examiner.

<sup>38</sup> Acts 1899, 1901; Burns 65-318; Baldwin 16075.

<sup>39</sup> Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1937; Burns, 1939 suppl., 16-327; Baldwin, 1937 suppl., 3811-11.

<sup>40</sup> Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1913; Burns 9-2502, 9-2503; Baldwin 3803, 3804. Acts 1909; Burns 60-214; Baldwin 13865.

<sup>41</sup> Acts 1897, ch. 144, secs. 1, 2.

<sup>42</sup> Acts 1840-41 (general), ch. 2, sec. 27. Acts 1871, ch. 17, sec. 38. Acts 1891, ch. 194, sec. 124. Acts 1895; Burns 49-1401; Baldwin 7576.

<sup>43</sup> Required by order of state board of accounts. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>44</sup> Acts 1899; Burns 26-523; Baldwin 5387.

<sup>45</sup> Acts 1840-41 (general), ch. 2, sec. 10. 1 Rev. Stat. 1852; Burns 49-3010; Baldwin 5423. Wells v. State *ex rel.* Board of County Comrs. (1864), 22 Ind. 241.

<sup>46</sup> Acts 1879 (Spec. Sess.); Burns 26-805.

<sup>47</sup> Acts 1899; Burns 26-538; Baldwin 5403.

and also all allowances against the county made by courts.<sup>48</sup> On appeals from decisions of the board of commissioners, the auditor approves the appeal bond, prepares the transcript of proceedings, and transmits the bond, transcript, and all documents to the reviewing court.<sup>49</sup>

Funds in the county treasury are disbursed on warrants drawn by the auditor on the county treasurer.<sup>50</sup> The auditor publishes a call for redemption of interest-bearing warrants, when money is available therefor.<sup>51</sup> Treasurer's receipts for payments other than for taxes are deposited by the payers with the auditor, who issues quietuses therefor.<sup>52</sup> All redeemed or canceled warrants are deposited quarterly by the treasurer with the auditor, for permanent filing.<sup>53</sup>

When the auditor draws a warrant he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.<sup>54</sup> Records of the warrants are kept in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.<sup>55</sup> The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.<sup>56</sup> Before issuing a warrant or quietus the auditor must examine the account to ascertain whether it is correct and in proper

<sup>48</sup> Acts 1875, ch. 18, sec. 1. Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817 to 26-819; Baldwin 5269 to 5271. *Cheney v. State ex rel. Risk* (1905), 165 Ind. 121, 74 N. E. 892.

<sup>49</sup> 1 Rev. Stat. 1852; Burns 26-902, 26-903; Baldwin 5278, 5279. *Scotten v. Divelbiss* (1874), 46 Ind. 301; *Shirk v. Moore* (1884), 96 Ind. 109; *Strebin v. Lavengood* (1904), 163 Ind. 478, 71 N. E. 494; *Smith v. Gustin* (1907), 169 Ind. 42, 81 N. E. 722.

<sup>50</sup> Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. Acts 1889; Burns 49-3007; Baldwin 5420. 1 Rev. Stat. 1852; Burns 49-3103 49-3111; Baldwin 5550, 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

<sup>51</sup> Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421.

<sup>52</sup> Rev. Stat. 1843, ch. 7, sec. 77. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3010, 49-3104; Baldwin 5423, 5551.

<sup>53</sup> Rev. Stat. 1843, ch. 7, secs. 79, 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Interview of June 14, 1939 with E. P. Brennan, state examiner.

<sup>54</sup> Acts 1899; Burns 26-544; Baldwin 5409.

<sup>55</sup> Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Interview of August 15, 1939 with E. P. Brennan, state examiner.

<sup>56</sup> Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.<sup>57</sup> The action of mandamus lies to compel the auditor to draw a warrant on the county treasury.<sup>58</sup>

On claims allowed by courts for cost of administration of justice,<sup>59</sup> and on claims (including claims on judgments) allowed by the board of commissioners, the auditor issues his warrant.<sup>60</sup> But a warrant may be issued to pay a judgment, or for management of the school fund, or for expenses of insanity inquests, or for salaries or other liabilities for specific amounts fixed by law, when no claim therefor has been allowed as aforesaid.<sup>61</sup> A warrant not called for within 5 years after the allowance of the claim on which it was drawn may be canceled by the board of commissioners, if not called for after publication of notice.<sup>62</sup>

The auditor keeps an account with each township showing expenditures and tax levies for poor relief, keeps reports of public welfare officials, and keeps records of county welfare funds.<sup>63</sup>

The auditor compiles budget estimates made by the county officers and boards; keeps them on file for 1 month, subject to inspection by any taxpayer; and submits them with his recommendations to the county council at its annual meeting.<sup>64</sup>

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<sup>57</sup> Acts 1909; Burns 60-215; Baldwin 12866.

<sup>58</sup> *Gill v. State ex rel. Board of County Comrs.* (1880), 72 Ind. 266.

<sup>59</sup> Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1881 (Spec. Sess.), 1903, 1913, 1927, 1933; Burns 4-3319, 4-3407; Baldwin 1277, 1236. Acts 1921, 1939; Burns, 1939 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236. 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306. Acts 1899; Burns 26-515, 26-527, 26-816; Baldwin 5379, 5391, 5268. Acts 1931; Burns 26-817, 26-818; Baldwin 5269, 5270. Acts 1895, 1905, 1915, 1919; Burns 49-1211; Baldwin 7570. Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128. 2 Rev. Stat. 1852; Burns 49-2709, 49-2804; Baldwin 1436, 5496.

<sup>60</sup> Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265.

<sup>61</sup> Acts 1897; Burns 26-809; Baldwin 5257. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

<sup>62</sup> Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

<sup>63</sup> Acts 1895, ch. 120, sec. 2. Acts 1897, ch. 151, sec. 1 (repealed by Acts 1901, ch. 147, sec. 39). Acts 1901, ch. 147, secs. 11, 12, 19, 20 (all repealed by Acts 1935, ch. 116, sec. 38). Acts 1907, ch. 161, sec. 1 (repealed by Acts 1935, ch. 116, sec. 38). Acts 1935; Burns, 1939 suppl., 52-158; Baldwin, 1935 suppl., 13320-15. Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1402; Baldwin, 1937 suppl., 14078-114.

<sup>64</sup> Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

The auditor furnishes all county officials with books, stationery, and blanks required in doing the public business pertaining to the auditor's office.<sup>65</sup>

Specifications, bids, and contracts for materials and supplies required for county officials for the ensuing year are placed on file and kept in the auditor's office where they are open to public inspection.<sup>66</sup>

When the county borrows money, the bonds or notes are executed by the county commissioners and are attested, advertised, and sold by the auditor. Printed copies of the ordinance authorizing the bond issue, together with specifications describing the bonds, are kept on file in the auditor's office, open to public inspection.<sup>67</sup> If the amount of a bond issue exceeds \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified by the auditor to the state board of tax commissioners for hearing and disposition.<sup>68</sup> Contracts for extension of time for payment of county or township bonds by issuance of "redemption bonds" are executed by the county commissioners and attested by the auditor, and one executed copy is kept by the auditor; and the auditor keeps a record of redemption bonds issued in pursuance of such contract.<sup>69</sup>

The auditor, as relator, may sue, in the name of the state, to recover money owing to the county,<sup>70</sup> and the auditor may compromise the suits brought by him and receive the money agreed to be paid.<sup>71</sup>

The auditor, after receiving the surveyor's report on apportionments, prepares the ditch duplicate showing assessments against lands for construction or repair of ditches and drains.<sup>72</sup>

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<sup>65</sup> Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434.

<sup>66</sup> Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

<sup>67</sup> Acts 1899, 1921; Burns 26-540; Baldwin 5405.

<sup>68</sup> *Ibid.* Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

<sup>69</sup> Acts 1933; Burns 26-1015 to 26-1017; Baldwin 5353 to 5355.

<sup>70</sup> 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Rogers v. Gibson* (1860), 15 Ind. 218; *Scotten v. State ex rel. Simonton* (1875), 51 Ind. 52; *Yeter v. State ex rel. Board of County Comrs.* (1877), 58 Ind. 299; *Hostetler v. State ex rel. Dean* (1878), 62 Ind. 183; *Vanarsdale v. State ex rel. Watson* (1879), 65 Ind. 176; *Gauntt v. State ex rel. Stout* (1881), 81 Ind. 137; *Heagy v. State ex rel. Forkner* (1882), 85 Ind. 260; *Demarest v. Holdeman* (1901), 157 Ind. 467, 62 N. E. 17.

<sup>71</sup> *Cabel v. McCafferty* (1876), 53 Ind. 75; *Vigo Twp. v. Board of County Comrs.* (1887), 111 Ind. 170, 12 N. E. 305.

<sup>72</sup> Acts 1881 (Spec. Sess.), ch. 43, sec. 5 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1933; Burns 27-134; Baldwin 5770. *Storms v. Stevens* (1885), 104 Ind. 46, 3 N. E. 401;

Assessments for floodgates<sup>73</sup> and for the cutting or eradicating of Canada thistles<sup>74</sup> are placed on the tax duplicate by him. Formerly petitions for drainage and levee improvements were filed with the auditor and he gave notice to viewers and kept a record of all proceedings concerning such improvements.<sup>75</sup>

The board doing county business has always had power to establish, construct, repair, and vacate county roads.<sup>76</sup> The auditor, being clerk of said board, has, accordingly, kept a record of road proceedings.<sup>77</sup> Road petitions are filed with the auditor for presentment to the board of commissioners.<sup>78</sup> When road viewers are appointed by the board, the auditor notifies the viewers and the county surveyor of their appointment and the time and place for their meeting.<sup>79</sup> Reports of road viewers are filed with the auditor and he enters road assessments on the tax duplicate or special assessment roll.<sup>80</sup> The county highway supervisor files with the auditor requisitions for all tools, implements, supplies, materials, and equipment needed for county roads.<sup>81</sup> For-

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Lockwood v. Ferguson (1886), 105 Ind. 380, 5 N. E. 3; Board of County Comrs. v. Fahlor (1888), 114 Ind. 176, 15 N. E. 830.

<sup>73</sup> Acts 1903; Burns 27-703; Baldwin 5841.

<sup>74</sup> Acts 1929, 1937; Burns, 1939 suppl., 15-904; Baldwin, 1937 suppl., 3719.

<sup>75</sup> Acts 1881 (Spec. Sess.), ch. 44, sec. 2 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1891, ch. 196, secs. 2, 24. Acts 1897, ch. 138, secs. 1, 4. Simonton v. Hays (1882), 88 Ind. 70; Vizzard v. Taylor (1884), 97 Ind. 90; White v. Fleming (1888), 114 Ind. 560, 16 N. E. 437; Cooper v. Ray (1897), 148 Ind. 328, 47 N. E. 668.

<sup>76</sup> Acts 1807, ch. 44, secs. 1-24. Acts 1811, ch. 29, secs. 1, 2. Acts 1815, ch. 5, secs. 1-20. Acts 1816-17, ch. 8, secs. 1, 4-8, 10, 11, 15, 22. Acts 1817-18 (general), ch. 43, secs. 1, 23. Acts 1818-19, ch. 11, secs. 2, 7, 11, 12. Acts 1819-20, ch. 55, secs. 31, 33. Rev. Laws 1824, ch. 87, secs. 1, 4-7, 9, 12, 15, 24, 25. Rev. Laws 1831, ch. 20, sec. 22; ch. 82, secs. 1, 4, 6, 12, 14, 28, 47. 1 Rev. Stat. 1852, ch. 48. Acts 1881 (Spec. Sess.), chs. 61-64. Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8902 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

<sup>77</sup> Acts 1921; Burns 36-1451; Baldwin 8954. Acts 1905; Burns 36-1222; Baldwin 8823.

<sup>78</sup> Acts 1919, 1921; Burns 36-304; Baldwin 8862.

<sup>79</sup> Acts 1895, ch. 11, sec. 1. Acts 1905, 1907; Burns 36-1301; Baldwin 8787. Turpin v. Eagle Creek & L. W. L. G. R. Co. (1874), 48 Ind. 45.

<sup>80</sup> Acts 1869 (Spec. Sess.), ch. 35, sec. 3 (repealed by Acts 1929, ch. 215, sec. 73). Acts 1877, ch. 46, sec. 3. Acts 1905, 1907; Burns 36-1301, 36-1305; Baldwin 8787, 8791. Acts 1921; Burns 36-1412; Baldwin 8915. Florer v. McAfee (1893), 135 Ind. 540, 35 N. E. 277; Smyth v. State *ex rel.* Braun (1902), 158 Ind. 332, 62 N. E. 449.

<sup>81</sup> Acts 1935; Burns, 1939 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1.

merly the auditor annually delivered to the road supervisor a list of landowners of the county<sup>82</sup> and annually delivered to each township trustee a list of all road taxes assessed against each individual in the township.<sup>83</sup>

Petitions for condemnation of schoolhouses, as unfit for use for school purposes, are filed with the auditor. The auditor mails and publishes notices of hearings, and calls special joint sessions of the board of commissioners and county council to hold hearings on such petitions.<sup>84</sup>

In each township having a population not exceeding 5,000 (all townships except Washington), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.<sup>85</sup>

The auditor certifies to the city officials the number of taxable polls therein,<sup>86</sup> adds omitted polls to the tax duplicate,<sup>87</sup> and certifies to the treasurer the amount of excise tax due from financial institutions.<sup>88</sup> For excise tax purposes, each financial institution delivers to the auditor monthly statements showing the number of its shares, amount of deposits, and kindred information.<sup>89</sup> The auditor is authorized to examine the records of the recorder and clerk of the circuit court to ascertain whether all persons have paid intangible taxes; and for this purpose may interrogate any person under oath and examine private records of such person.<sup>90</sup>

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor.<sup>91</sup>

The auditor issues licenses for peddlers, shows, thea-

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<sup>82</sup> Rev. Stat. 1843, ch. 16, sec. 105.

<sup>83</sup> Acts 1883, ch. 56, sec. 20.

<sup>84</sup> Acts 1931; Burns 28-3002 to 28-3004; Baldwin 6144 to 6146.

<sup>85</sup> Acts 1933; Burns 64-1031; Baldwin 15664.

<sup>86</sup> Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

<sup>87</sup> Acts 1919; Burns 64-2102; Baldwin 15803.

<sup>88</sup> Acts 1933; Burns 64-810; Baldwin 15591.

<sup>89</sup> Acts 1933, 1935; Burns, 1939 suppl., 64-807; Baldwin, 1935 suppl., 15588.

<sup>90</sup> Acts 1933; Burns 64-917; Baldwin 15915.

<sup>91</sup> Acts 1897, ch. 119. Acts 1925, ch. 144 (repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176 (repealed by Acts 1937, ch. 133, sec. 16). Acts 1923; Burns 16-301, 16-302; Baldwin 3826, 3827. Acts 1937; Burns, 1939 suppl., 16-317; Baldwin, 1937 suppl., 3811-1. *Finerty v. State ex rel. School City of Gary* (1938), 213 Ind. 470, 12 N. E. (2d) 941.

ters,<sup>92</sup> transient merchants,<sup>93</sup> and public warehouses.<sup>94</sup> He approves and files bonds of ferrymen,<sup>95</sup> and records their licenses.<sup>96</sup> Formerly he issued licenses for the sale of liquor<sup>97</sup> and foreign merchandise<sup>98</sup> as directed by the board of commissioners, and filed remonstrances against issuance of saloon licenses by the board of commissioners.<sup>99</sup>

The auditor takes a very important part in the administration of the property tax laws. Annually the township assessors file with the auditor all returns of real and personal property made by them, together with all assessment lists, schedules, statements, maps, and other books and papers used by them in making such returns; and the county assessor obtains the same from the auditor to perform the county assessor's duties, but returns them to the auditor for permanent filing.<sup>100</sup> If a taxpayer refuses to make a personal property tax return or an oath required by law in connection with the assessment of personal property, the auditor adds 50 percent to the personal property valuation returned by the assessor.<sup>101</sup> If a landowner fails to furnish a list of lands and improve-

<sup>92</sup> 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443. Acts 1901; Burns 42-502, 42-503; Baldwin 10470, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

<sup>93</sup> Acts 1901; Burns 42-402; Baldwin 10491. The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

<sup>94</sup> Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

<sup>95</sup> Acts 1817-18 (general), ch. 45, sec. 8. Rev. Laws 1824, ch. 42, sec. 8. Rev. Laws 1831, ch. 38, sec. 5. Acts 1881 (Spec. Sess.); Burns 36-2504; Baldwin 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2507; Baldwin 7697.

<sup>96</sup> Acts 1881 (Spec. Sess.); Burns 36-2610; Baldwin 7700.

<sup>97</sup> Acts 1817-18 (general), ch. 47, secs. 2, 3. Acts 1820-21, ch. 36, secs. 1, 2. Rev. Laws 1824, ch. 107, secs. 1, 3. Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2). Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). Acts 1873, ch. 59, sec. 2. Padgett v. State (1884), 93 Ind. 396.

<sup>98</sup> Acts 1816-17, ch. 17, sec. 4. Acts 1817-18 (general), ch. 44, sec. 4. Rev. Laws 1824, ch. 23, sec. 3. Rev. Laws 1831, ch. 21, sec. 7. Rev. Stat. 1838, ch. 22, sec. 7 *et seq.* Rev. Stat. 1843, ch. 12, sec. 165 *et seq.*

<sup>99</sup> Acts 1905, ch. 6, sec. 1.

<sup>100</sup> Rev. Stat. 1843, ch. 12, secs. 28, 41. Acts 1850-51 (general), ch. 5, secs. 12, 19; ch. 9, secs. 5, 8. Acts 1858 (Spec. Sess.), ch. 2, sec. 20. Acts 1891, ch. 99, secs. 101, 105. Acts 1919; Burns 64-1023, 64-1029, 64-1102; Baldwin 15689, 15694, 15698. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Interview of May 18, 1939 with E. P. Brennan, state examiner.

<sup>101</sup> Acts 1919; Burns 64-610; Baldwin 15578.

ments within 5 days after a township assessor has so requested, the auditor must add 25 percent to the valuation of any lands or improvements listed by the assessor and which were not assessed the previous year.<sup>102</sup> The auditor assesses omitted property, after giving notice to the taxpayer.<sup>103</sup> For the purpose of the listing and assessment of omitted property, the auditor may, on filing proper affidavit in the circuit court and obtaining a writ directed to the sheriff, inspect the books and papers of taxpayers.<sup>104</sup> Acting for the county board of review, the auditor gives notice to taxpayers in order that the board may assess omitted property or raise valuations.<sup>105</sup> Appeals from the county board of review to the state board of tax commissioners are usually heard in the office of the auditor.<sup>106</sup> Formerly the auditor annually notified all township assessors to meet in the auditor's office to agree on a uniform rate of assessment.<sup>107</sup> Formerly railroad companies annually filed with the auditor, for taxation purposes, complete inventories of assets.<sup>108</sup>

The auditor annually makes out, and delivers to the township assessors, lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels

<sup>102</sup> Acts 1919; Burns 64-1008; Baldwin 15674.

<sup>103</sup> Acts 1840-41 (general), ch. 1, sec. 9. Acts 1889, ch. 183, sec. 1. Acts 1919; Burns 64-1402; Baldwin 15739. Scott v. Knightstown (1882), 84 Ind. 108; Lang v. Clapp (1885), 103 Ind. 17, 2 N. E. 197; Vandercook v. Williams (1885), 106 Ind. 345, 1 N. E. 619; Williams v. Segur (1885), 106 Ind. 368, 1 N. E. 707; McKeen v. Haskell (1886), 108 Ind. 97, 8 N. E. 901; Board of County Comrs. v. Senn (1889), 117 Ind. 410, 20 N. E. 276; Floer v. Sherwood (1891), 128 Ind. 495, 28 N. E. 71; Hennel v. Board of Comrs. (1892), 132 Ind. 32, 31 N. E. 462; Floer v. Sheridan (1894), 137 Ind. 28, 36 N. E. 365; Cummings v. Stark (1893), 138 Ind. 94, 34 N. E. 444; Thiebaud v. Tait (1894), 138 Ind. 238, 36 N. E. 525; Eaton v. Union County Nat. Bank (1895), 141 Ind. 136, 40 N. E. 668; Buck v. Miller (1896), 147 Ind. 586, 45 N. E. 647; Miller v. Vollmer (1899), 153 Ind. 26, 53 N. E. 949; Crowder v. Riggs (1899), 153 Ind. 158, 53 N. E. 1019; Parkison v. Thompson (1905), 164 Ind. 609, 73 N. E. 109; Darnell v. State (1910), 174 Ind. 143, 90 N. E. 769.

<sup>104</sup> Acts 1891, ch. 99, sec. 34. Acts 1919; Burns 64-1026; Baldwin 15549.

<sup>105</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

<sup>106</sup> Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

<sup>107</sup> Acts 1889, ch. 108, sec. 1 (repealed by Acts 1891, ch. 99, sec. 259).

<sup>108</sup> Acts 1891, ch. 99, sec. 83.

therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.<sup>109</sup> The auditor keeps a record of all lands classified by the state forester as "forest plantations" or "native forest lands" to obtain special rules or rates for tax assessments.<sup>110</sup>

For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. No such conveyance can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.<sup>111</sup> On the death of a land-owner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.<sup>112</sup> The auditor corrects on the tax books any errors as to description of property and names of owners.<sup>113</sup>

Forms and instructions for taxation purposes are prescribed by the state board of tax commissioners and delivered to the auditor.<sup>114</sup> The auditor furnishes the township assessors with all necessary books and blanks for their use in making assessment of real and personal property.<sup>115</sup> Assessments of omitted real estate by township assessors are filed

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<sup>109</sup> Acts 1840-41 (general), ch. 1, sec. 4; ch. 2, sec. 12. Acts 1841-42, ch. 60, sec. 4. Rev. Stat. 1843, ch. 12, sec. 27. Acts 1858 (Spec. Sess.), ch. 2, sec. 5. Acts 1891, ch. 99, sec. 93. Acts 1919, 1937; Burns, 1939 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

<sup>110</sup> Acts 1899, ch. 256, sec. 9. Acts 1921; Burns 32-304, 32-306; Baldwin 15517-4, 15517-6.

<sup>111</sup> Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

<sup>112</sup> Acts 1921; Burns 64-519; Baldwin 14777.

<sup>113</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

<sup>114</sup> Acts 1919; Burns 64-2803; Baldwin 15866. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), pp. 22-30, 53, 54, 102, 103, 123-139.

<sup>115</sup> Acts 1858 (Spec. Sess.), ch. 2, sec. 23. Acts 1891, ch. 99, secs. 53, 101. Acts 1903, ch. 29, sec. 32. Acts 1899; Burns 26-543; Baldwin 5408. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434. Acts 1919; Burns 64-1007, 64-1016; Baldwin 15672, 15682.

with the auditor.<sup>116</sup> The auditor makes assessment of any newly platted land additions to any city or town.<sup>117</sup>

The auditor certifies as to the required number of signers of petitions filed by groups of taxpayers with the state board of tax commissioners to obtain a reassessment of real estate.<sup>118</sup>

Sworn statements and applications to obtain tax exemptions authorized by law (including mortgage deductions) are filed with the auditor, who refers them to the county board of review for approval.<sup>119</sup>

Annually the auditor appports the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.<sup>120</sup> After the county council, at its annual meeting, adopts a budget, establishes a tax rate, and makes tax levies for the succeeding calendar year, the auditor schedules the rates for the county and the several municipal corporations therein, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.<sup>121</sup> The decisions of the state board of tax commissioners on an appeal from the county council's action in adopting budgets and tax levies is certified to the auditor and he certifies it to the taxing units interested therein.<sup>122</sup>

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<sup>116</sup> Acts 1840-41 (general), ch. 2, sec. 12. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

<sup>117</sup> Acts 1919; Burns 64-1027; Baldwin 15691.

<sup>118</sup> Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

<sup>119</sup> Tax exemptions in general. Acts 1937; Burns 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

Volunteer firemen. 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1939 suppl., 48-6161; Baldwin, 1939 suppl., 12653-1.

Disabled veterans. Acts 1927; Burns 64-206; Baldwin 10987.

Mortgage deductions. Acts 1899, ch. 190, secs. 2, 3. Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. "Mortgage Deductions," *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939* (1939), pp. 64-74.

<sup>120</sup> Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

<sup>121</sup> Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>122</sup> Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

Annually each municipal corporation of the county files with the auditor a statement of tax levies and rates for the ensuing year, fixed by such municipal corporations, and copies of the budgets on which such levies are based.<sup>123</sup> At the annual meeting of the county board of tax adjustment, the auditor lays before the board these budgets, tax levies, and rates.<sup>124</sup> If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the tax levies and rates within the statutory limits, the auditor calculates and fixes the rates and certifies his action to each municipal corporation.<sup>125</sup> The decision of the state board of tax commissioners on an appeal from the action of the board of tax adjustment is certified to the auditor.<sup>126</sup>

The auditor certifies to the state board of tax commissioners all emergency appropriations made by the county council, together with tax levies based thereon.<sup>127</sup>

After the assessments, budgets, tax rates, and tax levies have been made, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the tax duplicate, and a complete tax abstract of all property listed in each township, city, and town. He keeps a copy of the abstract in his office and delivers another copy thereof to the auditor of state.<sup>128</sup> Semiannually the county auditor delivers to the county treasurer and to the treasurer of each city, town, and township in the county, a complete list of all persons reported as delinquent in the payment of taxes, as shown by the tax duplicate.<sup>129</sup> Formerly a separate list of delinquent taxes was delivered by the county auditor to

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<sup>123</sup> Acts 1933; Burns 64-302; Baldwin 15893. Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

<sup>124</sup> Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>125</sup> Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

<sup>126</sup> Acts 1937; Burns, 1939 suppl., 64-314; Baldwin, 1937 suppl., 15897-8.

<sup>127</sup> Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

<sup>128</sup> Acts 1840-41 (general), ch. 1, secs. 12, 14; ch. 2, secs. 17, 22. Rev. Stat. 1843, ch. 12, secs. 44, 50, 51, 133. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745. Standard Oil Co. v. Bretz (1884), 98 Ind. 231; Adams v. Davis (1886), 109 Ind. 10, 9 N. E. 162; Smith v. Smith (1902), 159 Ind. 388, 65 N. E. 183.

<sup>129</sup> Rev. Stat. 1843, ch. 12, sec. 68. Acts 1911, ch. 234, sec. 1. Acts 1919; Burns 64-1505; Baldwin 15767.

the auditor of state, but now, and for many years last past, the only lists so delivered are those that are set forth in the tax abstract.<sup>180</sup>

The auditor annually prepares and records in a book, provided for that purpose, a list of lands delinquent for taxes, charges the interest and penalty required by law, publishes and posts the list with a notice of tax sale, includes a copy of the notice in his record, and certifies on his record the time and manner of such publication and posting.<sup>181</sup> The auditor attends the treasurer's tax sales of delinquent lands, keeps a record of the sales, and issues certificates to the purchasers.<sup>182</sup> The auditor acts as arbiter in case of partial redemption of lands from tax sale.<sup>183</sup> When lands are redeemed from tax sale, he issues a certificate of redemption and keeps a record of all redemptions.<sup>184</sup> The auditor executes all tax deeds of land, and keeps a record thereof.<sup>185</sup> On authorization by the board of commissioners he issues a warrant for a refund to persons paying illegal or erroneous taxes and also to purchasers at illegal tax sales.<sup>186</sup> Annually a list of lands offered at tax sale 3 years successively, on which there was no bid equal to the amount of taxes due thereon, is prepared by the treasurer, certified by the auditor, and delivered to the prosecuting attorney.<sup>187</sup>

The state's share of taxes collected by the county treas-

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<sup>180</sup> Rev. Stat. 1843, ch. 12, sec. 68. Interview of June 29, 1939 with Frank G. Thompson, auditor of state.

<sup>181</sup> Acts 1840-41 (general), ch. 2, secs. 26, 28-30. Acts 1879 (Spec. Sess.), ch. 96, sec. 3. Acts 1883, ch. 76, sec. 1. Acts 1919; Burns 64-2201; Baldwin 15806. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Abbott v. Edgerton (1876), 53 Ind. 196; Stropes v. Board of County Comrs. (1880), 72 Ind. 42.

<sup>182</sup> Acts 1840-41 (general), ch. 2, secs. 33, 34. Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. 1 Rev. Stat. 1852, ch. 6, sec. 177. Acts 1919; Burns 64-2209, 64-2210; Baldwin 15816, 15817. Gable v. Seiben (1894), 137 Ind. 155, 36 N. E. 844.

<sup>183</sup> Acts 1919; Burns 64-2308; Baldwin 15826.

<sup>184</sup> Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. Acts 1919; Burns 64-2313; Baldwin 15831.

<sup>185</sup> Acts 1840-41 (general), ch. 2, secs. 37, 44. Acts 1919; Burns 64-2404 to 64-2409; Baldwin 15833 to 15838. Reid v. State *ex rel.* Thompson (1881), 74 Ind. 252; Smith v. Kyler (1881), 74 Ind. 575; Woolen v. Rockafeller (1881), 81 Ind. 208; Lancaster v. De Hadway (1884), 97 Ind. 565; Rowe v. Peabody (1885), 102 Ind. 198, 1 N. E. 353.

<sup>186</sup> Acts 1919; Burns 64-1407, 64-2411, 64-2819; Baldwin 15744, 15840, 15881. Wolfe v. State *ex rel.* Kennard (1883), 90 Ind. 16.

<sup>187</sup> Acts 1881 (Spec. Sess.), ch. 96, sec. 222. Acts 1919; Burns 64-1518; Baldwin 15772.

urer is disbursed to the proper state officers on warrants drawn by the auditor on the county treasury.<sup>138</sup>

The auditor manages the school funds held in trust by the county,<sup>139</sup> with the exception of making loans. The county school fund board (composed of the auditor, clerk of the circuit court, and another person appointed by the judge of the circuit court) makes all the loans from those funds.<sup>140</sup> Whenever a Congressional Township is divided by a county line, the auditor makes all adjustments of land, accounts, and distribution of pupils.<sup>141</sup> The auditor conducts the sale of school lands<sup>142</sup> (including those previously sold and forfeited by the purchasers thereof).<sup>143</sup> The auditor issues a quitclaim deed whenever there is a defect in the title of the owner of land in a school section resulting from destruction of public records.<sup>144</sup>

Funds held by the county in trust for cemetery purposes are managed and loaned by the auditor in the manner provided by law for school funds.<sup>145</sup>

Certified copies of the official oaths of all officers appointed by the board of commissioners, together with certified copies of oaths of such township officers (except justices of the peace and constables) as required by the board, are filed with the auditor.<sup>146</sup> When a bond is required of any such officer, it also is filed with the auditor.<sup>147</sup> The board of commissioners meets in the office of the auditor, at any time without notice or precept, for the purpose of approving official bonds which are required to be approved

<sup>138</sup> Acts 1877, ch. 90, sec. 1. Acts 1907, 1911; Burns 61-620; Baldwin 13824 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

<sup>139</sup> Acts 1855, ch. 86, sec. 155. Acts 1861, ch. 41, secs. 122, 160. Acts 1865, 1907; Burns 28-101, 28-102, 28-105; Baldwin 6499, 6500, 6511.

<sup>140</sup> Rev. Stat. 1843, ch. 13, sec. 45. Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1939 suppl., 6558. See the essay entitled "County School Fund Board."

<sup>141</sup> Acts 1877 (Spec. Sess.); Burns 28-111 to 28-114; Baldwin 6518 to 6520, 6510.

<sup>142</sup> Acts 1865, 1875; Burns 28-122 to 28-124; Baldwin 6553, 6528, 6529.

<sup>143</sup> Acts 1863, 1865; Burns 28-125, 28-126, 28-129 to 28-133, 28-135 to 28-137, 28-140 to 28-143, 28-145, 28-146; Baldwin 6530, 6531, 6538, 6539, 6534, 6535, 6540, 6542 to 6544, 6547 to 6550, 6552, 6554.

<sup>144</sup> Acts 1915; Burns 28-239; Baldwin 5435.

<sup>145</sup> Acts 1915; Burns 21-214, 21-217; Baldwin 4668, 4674.

<sup>146</sup> Rev. Stat. 1843, ch. 4, sec. 84. 1 Rev. Stat. 1852; Burns 49-104; Baldwin 13057.

<sup>147</sup> Rev. Stat. 1843, ch. 4, secs. 88, 89. 1 Rev. Stat. 1852; Burns 49-104, 49-105; Baldwin 13057, 13058.

by the board.<sup>148</sup> The official bond of the county assessor is approved by and filed with the auditor; and the assessor's official oath is administered by the auditor and endorsed on said bond.<sup>149</sup> The official bond of each township trustee is approved by the auditor.<sup>150</sup>

The township trustees quadrennially meet in the office of the auditor for the purpose of electing a county superintendent of schools. After notice is given by the auditor, the trustees meet there at any time to fill a vacancy in such office. The auditor is clerk of the election and keeps a record thereof. In case of a tie vote the auditor casts the deciding vote. The person elected files his oath of office and official bond with the auditor, who approves the bond. The auditor reports the election to the state superintendent of public instruction.<sup>151</sup>

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.<sup>152</sup>

When an election is held to change the boundaries of counties, the clerk of the circuit court of each of the affected counties makes out certified copies of the election returns and files them in the office of the auditor of each of such counties. The auditor and board of commissioners in each county then examines the returns, and if the proposed change of boundaries was carried at the election, the auditor enters an order to that effect in the order book of the board of commissioners.<sup>153</sup> The auditor makes a certificate of tax levies for the purpose of raising funds from the detached

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<sup>148</sup> Acts 1851-52; Burns 49-123; Baldwin 13093.

<sup>149</sup> Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

<sup>150</sup> Acts 1859, 1889; Burns 65-102; Baldwin 16060. Acts 1915; Burns 65-103; Baldwin 16061.

Copeland v. State *ex rel.* Davis (1890), 126 Ind. 51, 25 N. E. 866.

<sup>151</sup> Acts 1873, ch. 25, sec. 2. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State *ex rel.* Nebecker v. Sutton (1884), 99 Ind. 300; State *ex rel.* Laughlin v. Porter (1888), 113 Ind. 79, 14 N. E. 883; State *ex rel.* Williams v. Edwards (1888), 114 Ind. 581, 16 N. E. 627; State *ex rel.* Drummond v. Dillon (1890), 125 Ind. 65, 25 N. E. 136; State *ex rel.* Morris v. McFarland (1898), 149 Ind. 266, 49 N. E. 5.

<sup>152</sup> Rev. Stat. 1852, pt. 1, ch. 4, secs. 4, 17. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

<sup>153</sup> Acts 1875; Burns 26-201; Baldwin 5032.

territory to pay the debts of the county from which it was detached.<sup>154</sup>

Under former laws the auditor prepared blank forms of poll books and election returns, and delivered them to the inspectors of the election precincts;<sup>155</sup> delivered election supplies to the registration inspector of each precinct;<sup>156</sup> kept the completed registration books and forms in his office, open to public inspection;<sup>157</sup> filed in his office petitions for elections under the local option liquor laws;<sup>158</sup> and delivered to the clerk of the circuit court the various papers involved in election contests heard by the board of commissioners, together with a transcript of the proceedings of the board.<sup>159</sup>

Formerly petitions to have the surveyor removed from office were filed with the auditor for presentation to the board of commissioners.<sup>160</sup> Vacancies in the former office of real estate appraiser were filled through appointment by the auditor.<sup>161</sup>

Once every 6 years the township trustees and their assistants enumerate all white male inhabitants of the state over 21 years old.<sup>162</sup> Books and blanks, together with copies of the law requiring such enumerations, are furnished to the township trustees by the auditor.<sup>163</sup> The trustees' returns are filed in the office of the auditor.<sup>164</sup> The auditor examines the returns and corrects (by orders recorded in a separate book) any errors, mistakes, or omissions discovered. For this purpose he may subpoena and question witnesses.<sup>165</sup>

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<sup>154</sup> Acts 1875; Burns 26-204, 26-205; Baldwin 5035, 5036.

<sup>155</sup> Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

<sup>156</sup> Acts 1911, ch. 150, sec. 5 (repealed by Acts 1913, ch. 185, sec. 25).

<sup>157</sup> Acts 1911, ch. 150, sec. 13 (repealed by Acts 1913, ch. 185, sec. 25).

<sup>158</sup> Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5.

<sup>159</sup> Acts 1816-17, ch. 9, sec. 22. Rev. Laws 1831, ch. 33, secs. 8, 9. Rev. Stat. 1843, ch. 5, sec. 103.

<sup>160</sup> Rev. Stat. 1843, ch. 10, sec. 4.

<sup>161</sup> Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

<sup>162</sup> Acts 1853, ch. 41, secs. 1, 2. Acts 1865 (Spec. Sess.); Burns 65-601 to 65-605; Baldwin 7490 to 7494.

<sup>163</sup> Acts 1844-45 (general), ch. 29, sec. 2. Acts 1853, ch. 41, sec. 2. Acts 1865 (Spec. Sess.); Burns 65-614; Baldwin 7503.

<sup>164</sup> Acts 1844-45 (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.

<sup>165</sup> Acts 1865 (Spec. Sess.); Burns 65-610; Baldwin 7499.

The auditor then certifies the corrected enumerations to the auditor of state.<sup>166</sup> Likewise there is an enumeration of colored male inhabitants. Separate lists are made; one is designated "white male inhabitants" and the other "colored male inhabitants."<sup>167</sup>

Each township assessor annually prepares lists of all persons in his township who are deaf, dumb, blind, idiotic, or insane, and delivers the lists to the auditor, who reports them to the state department of public welfare.<sup>168</sup>

Formerly the township assessors were required to enumerate the families of soldiers, seamen, and marines in active service, and of those who died or were disabled in active service, and deliver the lists to the auditor.<sup>169</sup> The township trustees formerly made enumerations of children between the ages of 5 and 21 years and delivered the returns to the auditor, who delivered them to the state superintendent of public instruction.<sup>170</sup>

Formerly every fire insurance company doing business in Indiana, not organized under Indiana laws, was required to make semiannual reports to the auditor showing premiums received by the company for fire insurance on property in the county and showing all losses paid by the company for the last semiannual period.<sup>171</sup> Formerly financial statements of banks were filed with the auditor.<sup>172</sup>

Formerly the auditor, as clerk of the board of commissioners, issued old-age pension certificates to applicants approved by the board, and delivered duplicates thereof to the auditor of state.<sup>173</sup>

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<sup>166</sup> Acts 1844-45 (general), ch. 29, sec. 5. Acts 1853, ch. 41, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-611; Baldwin 7500.

<sup>167</sup> Acts 1877; Burns 65-619, 65-620; Baldwin 7509, 7510.

<sup>168</sup> Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

The foregoing laws require the report to be made to the state board of charities. In 1936 the duties of that board were transferred to the state department of public welfare. Acts 1936 (Spec. Sess.), ch. 3, sec. 11.

<sup>169</sup> Acts 1865, ch. 40, secs. 2, 3, 5. Acts 1923, ch. 4, sec. 1.

<sup>170</sup> Rev. Stat. 1843, ch. 15, sec. 25. Acts 1846-47 (general), ch. 94, sec. 2. Acts 1855, ch. 86, sec. 26.

<sup>171</sup> Acts 1891, ch. 192, sec. 1. On June 16, 1893 this act was held unconstitutional. Henderson v. London & Lancashire Ins. Co. (1893), 135 Ind. 23, 24 N. E. 565.

<sup>172</sup> Acts 1905, ch. 56, sec. 2 (repealed by Acts 1907, ch. 281, sec. 6).

<sup>173</sup> Acts 1933, ch. 36, sec. 12 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

Articles of incorporation of humane societies are filed with the auditor and form the basis for the distribution of humane funds on warrants drawn by him.<sup>174</sup>

Scalps of woodchucks, heads of owls, hawks, and crows, and eggs of crows are presented to the auditor with the statutory affidavits for the purpose of obtaining bounties thereon.<sup>175</sup>

The auditor of state prepares maps or plats of the lands belonging to the state and located in the county, known as the swamplands, indemnity lands, saline lands, and the lands escheated or forfeited to the state, and delivers them to the county auditor, who causes an appraisal thereof, registers the lands in a book kept for that purpose, and records the sales of such lands.<sup>176</sup>

The auditor must preserve the documents, books, papers, and maps deposited in his office.<sup>177</sup> If any map or plat in his office becomes worn or defaced, he makes a new copy thereof.<sup>178</sup> He takes copies of any maps or plats in the recorder's office that may be necessary for the discharge of the auditor's official duties.<sup>179</sup>

The auditor and his deputies can administer all oaths necessary in the performance of their duties.<sup>180</sup>

Forms for the following books were prescribed for the county auditors by the state board of accounts: A combined fee book and cashbook; tax duplicate; ditch tax duplicate; ditch tax duplicate-10 year payment; moratorium tax duplicate; register of warrants on treasurer; register of quietuses and receipts; distribution record; record of commissioners' allowances; ledger of appropriations and disbursements; ledger of receipts and disbursements; record of receipt and sale of intangible tax stamps; register of banks and savings banks;

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<sup>174</sup> Acts 1913; Burns 9-2504, 9-2505; Baldwin 3805, 3806.

<sup>175</sup> Acts 1883; Burns 26-1102; Baldwin 5289. Acts 1911; Burns 26-1103; Baldwin 3802.

<sup>176</sup> Acts 1825, ch. 47, sec. 2. Rev. Laws 1831, ch. 11, sec. 6. Rev. Laws 1838, ch. 10, secs. 6, 7. 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

<sup>177</sup> Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 15, sec. 34. Acts 1883, ch. 56, sec. 1. Acts 1891, ch. 99, secs. 114, 116. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1899; Burns 26-500; Baldwin 5373. \* Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 19<sup>27</sup> suppl., 15897-4.

<sup>178</sup> 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

<sup>179</sup> *Ibid.*

<sup>180</sup> 1 Rev. Stat. 1852; Burns 49-3013; Baldwin 5427.

register of building and loan associations; register of school fund loans; register of school fund interest contracts and record of payments; inventory of school fund loans; record of condition of school funds; register of macadam road bonds and interest paid; bond register; transfer record; venue record; monthly balance record; auditor's financial statement; insolvent record; register of receipts and sales of material—county infirmary; construction record—ruled, printed, punched; register of redemption bonds; bidders' record; work sheet—delinquent tax extension; abstract of delinquent tax 1934 carried to 1935 duplicate; poor relief ledger; township poor bond redemption ledger; ledger of poor bond receipts; and auditor's poor claim register.<sup>181</sup>

Forms for the following blanks, documents, and reports were prescribed for the county auditors by the state board of accounts: Report of fees collected; claim for burial of soldiers; ordinance of appropriation; estimate of revenues other than taxes; warrants on treasurer; claims against county; dog claims; estimate of county commissioners-general; estimates of county commissioners for orphans' home, tuberculosis hospital, county hospital, and insane hospital; estimates of clerk of the circuit court, auditor, treasurer, recorder, sheriff, surveyor, superintendent of schools, coroner, county assessor, township assessors, prosecuting attorney, highway supervisor, and circuit court; auditor's card; report of superintendent of infirmary; report of viewers and engineer; county engineer's monthly estimate; surveyor's claim blank; specifications, bid, and contract for county printing and purchase of supplies; requisition; apportionment of current tax—June settlement; apportionment of current tax—December settlement; apportionment of bank or building and loan tax—June or December settlement; apportionment of delinquent tax—June settlement; apportionment of delinquent tax—December settlement; apportionment of moratorium tax—June or December settlement; distribution sheets—June and December; apportionment of treasurer's fees for collection of delinquent tax—June or December settlement; election to accept extension of school fund loan; contract for installment payments of delinquent interest on school fund loans; agreement for issuance of redemption bond; revised budget estimates of funds—county, township, civil city, civil town, school corporation, and library; estimate of miscellaneous revenue—county general fund, township fund,

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<sup>181</sup> Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

corporation fund, school corporation, civil town; June settlement sheets; December settlement sheets; abstract of taxables; notice to bidders; certificate of code compliance; school fund mortgage; journal voucher; auditor's report to commissioners; and kennel license.<sup>182</sup>

The state board of accounts was created in 1909.<sup>183</sup> Nearly all of the aforementioned forms were prescribed in 1910 and 1911, though some changes have been made since then. Most of the books and records required by the state board of accounts were specifically required by statute; but the board, under its broad statutory powers, has in some instances required books and records, such as the auditor's monthly balance record, not specifically required by statute. The auditor is not required to keep as many separate records now as he did before 1924, since the state board consolidated many of his records that year.<sup>184</sup>

#### AUDITS AND REPORTS

257. TRUSTEES' REPORTS, 1875--. 2 cartons, 28 vols., 12 f. b.

Copies of township trustees' annual report to township advisory board, showing date of report; names of township, trustee, advisory board members, funds, payers, and payees; amounts of receipts, disbursements, and balance of each fund; and total balance. Arr. chron. by dates of reports. No index. Hdw. Cartons, 18 x 12 x 8; vols., 100 pp. 14 x 10 x 1; f. b., 7 x 4 x 9. 2 cartons, 26 vols., 12 f. b., 1875-1934, N. stor. rm., attic; 2 vols., 1935-, aud. vt.

258. DOG FUND REPORTS, 1876-. 15 f. b.

Township trustees' annual reports to auditor of dog fund receipts and disbursements, showing dates of report, receipts, and disbursements; names of township, trustee, and payer or payee; number and nature of order and voucher; amounts of previous balance, receipts, and disbursements; totals; balance; and amount of orders outstanding. Arr. chron. by dates of reports. No index. Hdw. 7 x 4 x 9. 10 f. b., 1876-1928, N. stor. rm., attic; 5 f. b., 1929-, aud. vt.

259. TRUSTEES' VOUCHERS, 1876-. 26 f. b., 4 cartons. Receipted carbon copies of township trustees' vouchers issued

182 *Ibid.*

183 Acts 1909; Burns 60-202; Baldwin 13855.

184 *Ibid.* Interview of May 18, 1939 with E. P. Brennan, state examiner.

for payment of township expenses, showing date, number, nature, and amount of voucher; and names of payee, township, trustee, and fund. Arr. chron. by dates of vouchers. No index. Hdw. F. b., 7 x 4 x 9; cartons, 18 x 12 x 12. 26 f. b., 3 cartons, 1876-1929, N. stor. rm., attic; 1 carton, 1930-, aud. off.

260. SCHOOL REPORTS, 1886-. 6 f. b.

Auditor's copies of reports to state superintendent of public instruction of apportionment of school fund revenue to county school units, showing date of report, name of school unit, enumeration and aggregate attendance of school pupils, and amount apportioned to each unit. Arr. chron. by dates of reports. No index. Hdw. 7 x 4 x 9. 3 f. b., 1886-1907, N. stor. rm., attic; 3 f. b., 1908-, aud. vt.

261. FINES AND FORFEITURES, 1892-. 7 f. b.

Justices' of peace and mayors' quarterly reports of fines and forfeitures collected, showing dates of report, filing, and collections; names of plaintiff, defendant, and justice of peace or mayor; cause number; and itemized statement of collections. Arr. chron. by dates of reports. No index. Hdw. 7 x 4 x 9. 5 f. b., 1892-1920, N. stor. rm., attic; 2 f. b., 1921-, aud. vt.

For other fines and forfeiture records, see entry 64.

262. REPORTS COUNTY OFFICERS, 1895-. 6 f. b.

County officials' quarterly reports to auditor of fees collected, showing date of report, names of official and office, and amount and nature of fees collected. Arr. chron. by dates of reports. No index. Hdw. and typed. 7 x 4 x 9. 4 f. b., 1895-1930, N. stor. rm., attic; 2 f. b., 1931-, aud. off.

263. TEMPORARY POOR CLAIMS, 1895-. 1 bdl., 31 f. b.

Copies of township trustees' reports of relief granted, showing date of report; names of trustee and township; name, age, sex, color, nationality, occupation, length of county residence, former residence, and marital status of relief recipient; number and ages of family members; sex and nationality of any non-family member sharing relief; nature and amount of assistance granted; and date assistance was granted. Arr. chron. by dates of reports. No index. Hdw. Bdl., 10 x 5 x 3; f. b., 7 x 4 x 9. 1 bdl., 6 f. b., 1895-1934, N. stor. rm., attic; 25 f. b., 1935-, aud. off.

264. [FINANCIAL REPORT], 1900-. 1 bdl.

Copies of auditor's annual financial reports to board of county commissioners, showing year of report; amounts of previous balance, receipts, and disbursements; name of fund;

amount of each fund and total balance; itemized statement of county indebtedness; total amount of bonds unpaid; and county tax rates. Arr. chron. by years. No index. Hdw. and typed. 15 x 18 x 4. Aud. vt.

265. REPORTS STATE BOARD OF ACCOUNTANTS, 1915-. 3 f. b. Reports of audits of county offices by field examiners of state board of accounts, showing dates of audit and report; names of officer, office examined, and field examiner; and statement of financial conditions of accounts. Arr. chron. by dates of reports. No index. Typed. 7 x 4 x 9. 2 f. b., 1915-24, S. stor. rm., attic; 1 f. b.. 1925-, clk. vt.

RECEIPTS AND DISBURSEMENTS

(See also entries 238-256)

GENERAL FUND

266. RECORD OF MONTHLY BALANCES, 1912-. 3 vols. Record of monthly balances of all county funds, showing date of balance, amounts of receipts and disbursements, names of funds, and current balance or overdraft in each fund. Arr. chron. by dates of balances. No index. Hdw. 200 pp. 24 x 18 x 2. Aud. vt.

267. AUDITOR'S FEE & CASH BOOK, 1867-. 7 vols. (2 vols. unlabeled; 1-4; 1 vol. unlabeled). Title varies: Fee Book, 1867-77, 1 vol.; Cash Book, 1878-80, 1 vol.; Auditor's Fee Book, 1881-1902, 1 vol.

Record of fees collected, showing date, nature, and amount of collection; name of payer; total receipts; and dates of payments to treasurer. Arr. chron. by dates of collections. No index. Hdw. 160 pp. 17 x 11 x 2. 3 vols., 1867-1902, S. stor. rm., attic; 4 vols., 1903-, aud. vt.

268. LEDGER OF [Receipts], APPROPRIATIONS AND DISBURSEMENTS, 1925-. 6 vols. (5-10).

Record of receipts, appropriations, and disbursements, showing dates and amounts of receipts, appropriations, and disbursements; receipt and warrant numbers; names of payer, payee, and fund; and appropriation balance. This is a combination of three records formerly kept separately: Register of Receipts, entry 269; Record of Expenditures, entry 270; and Ledger of Appropriations and Disbursements, entry 271. Arr. by names of funds, thereunder chron. by dates of receipts, appropriations, and disbursements. No index. Hdw. 450 pp. 18 x 12 x 3. Aud. vt.

269. REGISTER OF RECEIPTS, 1883-1924. 5 vols. 1925- in Ledger of [Receipts], Appropriations and Disbursements, entry 268.

Record of all receipts of county revenue other than tax payments, showing date, number, nature, and amount of receipt; names of payee and fund; and total. Arr. num. by receipt nos. No index. Hdw. 240 pp. 16 x 11 x 3. 1 vol., 1883-97, S. stor. rm., attic; 4 vols., 1898-, aud. vt.

270. RECORD OF EXPENDITURES, 1863-1924. 11 vols. Title varies: Register of Orders Drawn, 1867-70, 1 vol.; Register of Warrants, 1911-24, 3 vols. 1925- in Ledger of [Receipts], Appropriations and Disbursements, entry 268.

Record of disbursements of county funds, showing date, number, nature, and amount of warrant; names of payee and fund; and total monthly amount of expenditures. Also contains: [Register of Orders School Fund], Apr. 1879-1924, entry 288; and Register of Orders Drawn, Common School Fund, Auditor, Feb. 1882-1924, entry 289. Arr. chron. by dates of warrants. No index. Hdw. 550 pp. 14 x 18 x 3½. S. stor. rm., attic.

271. LEDGER OF APPROPRIATIONS AND DISBURSEMENTS, 1900-1924. 4 Vols. (1-4). Title varies: Appropriation Ledger, 1900-1910, 1 vol. 1925- in Ledger of [Receipts], Appropriations and Disbursements, entry 268.

Record of appropriations and disbursements therefrom, showing dates and amounts of appropriations and disbursements, and names of payee and fund. Arr. by names of funds, thereunder chron. by dates of disbursements. Hdw. 450 pp. 18 x 12 x 3. S. stor. rm., attic.

272. CLERK'S CERTIFICATES, 1866-. 23 f. b.

Clerk's certificates of court allowances, showing dates of certificate and allowance, name of payee, amount of allowance, and warrant number. Arr. chron. by dates of certificates. No index. Hdw. 7 x 4 x 9. 13 f. b., 1866-1929, N. stor. rm., attic; 10 f. b., 1930-, aud. vt.

273. REGISTER OF ALLOWANCES, CIRCUIT COURT, 1872-. 6 vols. (4 vols. unlabeled; 4, 5).

Record of disbursements for court allowances, showing date, number, and amount of warrant; name of payee; and nature of allowance. Arr. chron. by dates of warrants. No index. Hdw. 250 pp. 18 x 12 x 2½. 1 vol., 1872-73, S. stor. rm., attic; 5 vols., 1874-, aud. vt.

## 274. TREASURER'S RECEIPTS, 1876-. 27 f. b.

Original treasurer's receipts issued for money received other than taxes, showing date, number, nature, and amount of receipt; and names of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 7 x 4 x 9. 21 f. b., 1876-1980, N. stor. rm., attic; 6 f. b., 1931-, aud. vt.

For stubs or duplicate receipts, see entry 247.

## 275. AUDITOR'S CERTIFICATE OF DISTRIBUTION, 1911-. 6 vols.

Copies of auditor's certificates of distribution of funds, showing date of certificate; warrant number; names of payee, taxing unit, and fund; and amount of distribution. Arr. chron. by dates of certificates. No index. Hdw. 320 pp. 11 x 6 x 2. 4 vols., 1911-25, S. stor. rm., attic; 2 vols., 1926-, aud. vt.

## 276. CHANGE OF VENUE, 1916-. 1 vol.

Record of receipts and disbursements for causes venued to and from other counties, showing nature and number of cause; names of plaintiff, defendant, and foreign county; and dates, numbers, and amounts of receipts and warrants. Arr. chron. by dates of receipts and disbursement. No index. Hdw. 200 pp. 14 x 14 x 2. Aud. vt.

For other change of venue records, see entries 195, 196, 277.

## 277. CHANGE OF VENUE, 1916-. 6 f. b.

Claims filed from courts of adjoining counties for costs in causes venued from local courts, showing dates of filing transcript, trial, disposition of cause and filing and certification of claim; names of plaintiff, defendant, and county; nature and number of cause; itemized statement of costs; and volume and page reference to Order Book [Civil and Criminal], entry 131. Arr. chron. by dates of claims. No index. Hdw. and typed. 7 x 4 x 9. 4 f. b., 1916-34, N. stor. rm., attic; 2 f. b., 1935-, aud. vt.

For other change of venue records, see entries 195, 196, 276.

## 278. [APPLICATION TO PAY AND QUIETUS], 1923-. 2 cartons.

Carbon copies of application to pay and quietus, showing date, number, nature, and amount of application and quietus; and names of payer and fund. This is a combination of two records formerly kept separately: Application to Pay, entry 279; and Quietus, entry 280. Arr. chron. by dates of applications and quietuses. No index. Typed. 12 x 12 x 24. 1 carton, 1923-33, N. stor. rm., attic; 1 carton, 1934-, aud. vt.

279. APPLICATION TO PAY, 1887-1922. 18 vols., 1 f. b. 1923- in [Application to Pay and Quietus], entry 278.

Stubs of applications to pay money other than taxes to county treasurer, showing date, nature, number, and amount of payment; and names of applicant and fund. Arr. num. by application nos. No index. Hdw. and typed. Vols.. 200 pp. 14 x 10 x 1; f. b., 7 x 4 x 9. S. stor. rm.. attic.

280. QUIETUS, 1879-1922. 21 vols. 1923- in [Application to Pay and Quietus], entry 278.

Stubs of quietuses issued for payments of money other than taxes to treasurer, showing date, number, and amount of quietus; and names of payer and fund. Arr. chron. by dates of quietuses. No index. Hdw. 200 pp. 14 x 10 x 1. S. stor. rm., attic.

281. [CANCELED WARRANTS], 1911-. 5 cartons, 52 f. b. Canceled warrants, showing date, number, nature, and amount of warrant; appropriation number; names of payee, depository; fund; and date of cancelation. Arr. chron. by dates of warrants. No index. Typed. Cartons, 8 x 12 x 24; f. b., 7 x 4 x 9. 5 cartons, 32 f. b., 1911-36, N. stor. rm., attic; 20 f. b., 1937-, aud. vt.

For carbon copies of warrants, 1925-, see entry 282.

282. REGISTER OF WARRANTS, 1925-. 15 vols.

Carbon copies of warrants drawn for disbursement of county revenue, showing date, number, nature, and amount of warrant; appropriation number; and names of payee, depository, and fund. Also contains: [Register of Orders School Fund], entry 283; and Register of Orders Drawn, Common School Fund, Auditor, entry 289. Arr. num. by warrant nos. No index. Typed. 500 pp. 17 x 10 x 4. Aud. vt.

For canceled warrants, 1911-, see entry 281.

283. INHERITANCE TAX, 1929-. 2 f. b.

Inheritance tax appraisers' certificates for fees and expenses allowed by court, showing dates of certificate, filing, allowance, and payment; cause number; amount and number of warrant; and names of appraiser and estate. Arr. chron. by dates of certificates. No index. Hdw. 7 x 4 x 9. Aud. vt.

For other inheritance tax records, see entries 187-189, 228.

284. REGISTER OF WELFARE WARRANTS, July 3, 1936-. 2 vols. (dated).

Copies of warrants issued to recipients of public welfare assistance, showing date, nature, number, and amount of warrant;

appropriation number; and names of payee and fund. Arr. chron. by dates of warrants. No index. Typed. 1,150 pp. 18 x 12 x 5. Aud. vt.

For other old-age and dependent children assistance, see entries 92, 93, 316, 365-375, 378-386.

285. COUNTY ORDERS, 1881-1910. 85 vols. Discontinued. Stubs of orders issued for disbursement of funds, showing date, number, nature, and amount of order; and names of payee and fund. Arr. num. by order nos. No index. Hdw. 100 pp. 12 x 6 x 1. N. stor. rm., attic.

286. JOURNAL, 1841-57. 1 vol.

Daily record of receipts and disbursements of county funds, showing date, nature, and amount of receipt and disbursement; receipt and voucher numbers; and names of payer and payee. Arr. chron. by dates of receipts and disbursements. No index. Hdw. Condition poor. 150 pp. 16 x 8 x 1. S. stor. rm., attic.

287. LEDGER, 1841-57. 1 vol.

Sundry postings of daily journal entries of county funds, showing dates and amounts of receipts and disbursements; names of payer, payee, and fund; and each fund balance. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 150 pp. 16 x 18 x 1½. S. stor. rm., attic.

SCHOOL FUND (see also entries 83, 217-222, 250-256)

288. [REGISTER OF ORDERS SCHOOL FUND], Mar. 1853-Mar. 1879.

1 vol. Apr. 1879-1924 in Record of Expenditures, entry 270; 1925- in Register of Warrants, entry 282.

Register of orders drawn on treasurer to disburse Congressional Township school funds, showing date, nature, number, and amount of order; and name of payee. Arr. chron. by dates of orders. No index. Hdw. 250 pp. 16 x 10 x 2. S. stor. rm., attic.

289. REGISTER OF ORDERS DRAWN, COMMON SCHOOL FUND, AUDITOR, Mar. 1853-Jan. 1882. 1 vol. Feb. 1882-1924 in Record of Expenditures, entry 270; 1925- in Register of Warrants, entry 282.

Register of orders drawn on treasurer to disburse common school funds, showing information as in entry 288. Arr. chron. by dates of orders. No index. Hdw. 250 pp. 16 x 10 x 2. S. stor. rm., attic.

290. JOURNAL, 1841-97. 3 vols.

Daily record of receipts and disbursements of school funds, showing dates, number, nature, and amounts of receipts and

orders. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 300 pp. 14 x 10 x 2. S. stor. rm., attic.

291. LEDGER, 1858-66. 1 vol.

Daily record of receipts and disbursements of school funds, showing dates and amounts of receipts, disbursements, and balance; name of account; and numbers of order and receipt. Arr. chron. by dates of receipts or disbursements. No index. Hdw. 365 pp. 13 x 11 x 2. S. stor. rm., attic.

TAXATION

(See also entries 223-237)

REAL, PERSONAL, AND POLL

292. TRANSFER BOOK, 1858-. 177 vols. (dated). Subtitled by names of taxing units.

Record of ownerships and transfers of title to real property, showing dates of deed and transfer; description and location of property; kind of deed; names of owner, grantee, grantor, and taxing unit; and amount of fee. Arr. by names of taxing units, thereunder alph. by names of grantees. No index. Hdw. 240 pp. 18 x 14 x 2. 31 vols., 1858-92, S. stor. rm., attic; 146 vols., 1893-, aud. vt.

293. ASSESSMENT LIST, 1876-. 25 f. b., 1,155 vols.

Schedule of assessments of personal property, showing date, number, and amount of assessment; name, age, occupation, and address of owner; name of taxing unit; description of property; valuation by owner and assessor; and number of polls. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. F. b., 7 x 4 x 9; vols., 288 pp. 16 x 9 x 2. 25 f. b., 622 vols., 1876-1923, N. stor. rm., attic; 291 vols., 1924-30, S. stor. rm., attic; 242 vols., 1931-, assr. vt.

294. ASSESSMENT CORPORATIONS, 1891-. 23 f. b.

Domestic corporations statements of all holdings in county, showing date of statement; name of corporation; location of principal office; kind of business; amounts of capital, common, and preferred stock; market valuation of stock; value of all tangible property and franchises; amounts of gross receipts, surplus, reserve fund, and undivided profits for the last fiscal year; and copy of balance sheet. Arr. chron. by dates of statements. No index. Hdw. and typed. 7 x 4 x 9. 19 f. b., 1891-1914, N. stor. rm., attic; 4 f. b., 1915-, aud. vt.

## 295. ASSESSOR'S BOOK, 1898-. 575 vols.

Record of real and personal property assessments, showing year of assessment; name of owner; location, description, and valuation of property; amount of exemptions; assessed and net valuations; and number of polls. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 100 pp. 18 x 11 x 1. 208 vols., 1898-1910, N. stor. rm., attic; 196 vols., 1911-28, S. stor. rm., attic; 114 vols., 1929-35, aud. off.; 57 vols. 1936-, assr. vt.

## 296. [NOTICE TO TAXPAYERS], 1900-. 1 f. d.

Newspaper clippings of notices to taxpayers that all real, personal, and poll taxes are due and payable, showing year of assessment, dates due and delinquent, itemized list of tax rates by taxing units, total rate of property and poll taxes, and date of publication of notice. Arr. chron. by years of publication. No index. Ptd. 10 x 12 x 24. Aud. off.

## 297. ASSESSOR'S PLAT BOOK, 1903-. 100 vols. (dated).

Subtitled by names of townships.

Plat book of lands and lots, showing date of plat; location, description, and assessed valuation of lands, lots, and improvements; and names of owner and taxing unit. Arr. by names of taxing units, thereunder num. by section nos. No index. Hdw. 150 pp. 18 x 11 x 1. 60 vols., 1903-22, N. stor. rm., attic; 40 vols., 1923-, aud. off.

For other plat records, see entries 78, 79.

## 298. CERTIFICATE OF ERROR, 1906-. 6 vols.

Stubs of certificates of error issued to treasurer to correct erroneous tax assessments, showing date, nature, number, and amount of certificate; names of taxpayer and taxing unit; and tax duplicate number. Arr. num. by certificate nos. No index. Hdw. 500 pp. 12 x 6 x 3. 3 vols., 1906-27, S. stor. rm., attic; 3 vols., 1928-, aud. vt.

## 299. RECORD OF ADDITIONS TO TAX DUPLICATES, 1908-. 1 vol., 1 f. d.

Record of additions to tax duplicates of omitted taxes, showing date of addition, name and address of property owner, name of taxing unit, description and assessed valuation of property, and volume and page reference to Tax Duplicate [and Delinquent List], entry 223. Arr. chron. by dates of additions. No index. Hdw. Vol., 320 pp. 18 x 12 x 2; f. d., 6 x 12 x 24. 1 vol., 1908-20, aud. vt.; 1 f. d., 1921-, aud. off.

## 300. DOG TAX REGISTER, 1923-. 224 vols.

Record of dog taxes collected, showing date of collection;

names of township, assessor and owner; number of dogs owned; sex, breed, and color of each; amount of tax; and receipt number. Arr. by twps., thereunder num. by receipt nos. No index. Hdw. 100 pp. 6 x 4 x  $\frac{1}{2}$ . 56 vols., 1923-26, N. stor. rm., attic; 168 vols., 1927-, aud. off.

301. TAX DUPLICATE [and Delinquent List], 1877-1912. 66 vols. Discontinued.

Record compiled by auditor of all taxes payable and amounts returned delinquent, showing information as entry 223. Arr. by names of taxing units, thereunder alph. by names of property owners, No index. Hdw. 400 pp. 18 x 24 x  $3\frac{1}{2}$ . N. stor. rm., attic.

302. [ASSESSMENT REAL ESTATE AND IMPROVEMENTS], 1919-32. 3 cartons, 11 bdls.

Assessment lists of real estate and improvements, showing date of assessment; name and address of owner; location, description, and valuation of lands, lots, and improvements; total assessed valuation; and name of taxing unit. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. Cartons, 10 x 10 x 20; bdls., 15 x 9 x 4. N. stor. rm., attic.

#### EXEMPTIONS

303. AFFIDAVITS OF MORTGAGE INDEBTEDNESS, 1903-. 91 vols. Affidavits by property owners of mortgage indebtedness on real property to obtain tax exemptions, showing dates of affidavit, filing, and mortgage; names of mortgagor and taxing unit; name and address of mortgagee; location and description of property; amounts of mortgage, unpaid balance, and exemption claimed and allowed; and volume and page reference to Mortgage Record, entry 80. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 250 pp. 15 x 9 x 3. 41 vols., 1903-25, N. stor. rm., attic; 26 vols., 1926-29, 1931, S. stor. rm., attic; 24 vols., 1930, 1932-, assr. vt.

For other real estate mortgages, see entries 81-84, 210.

304. SOLDIER'S EXEMPTIONS, 1923-. 1 f. b., 15 vols.

Affidavits of soldiers, sailors, marines, and nurses or widows of deceased soldiers, sailors, and marines filed to obtain tax exemptions on real property, showing dates of affidavit and filing; name, age, address, and service record of affiant; name of taxing unit; and certificate number. Arr. by names of twps., thereunder chron. by dates of affidavits. No. index. Hdw. F. b., 7 x 4 x 9; vols., 100 pp. 8 x 6 x 1. 1 f. b., 3 vols., 1923-25, N. stor. rm., attic; 12 vols., 1926-, assr. vt.

305. TAX EXEMPT PROPERTIES AND REDUCTIONS, 1934-. 1 f. b. Orders from state board of tax commissioners for tax exemptions and correction of assessments, showing dates of order and filing; order number; name and address of property owner; location, description, and last assessed valuation of property; corrected valuation; and amount of reduction. Arr. chron. by dates of orders. No index. Typed. 7 x 4 x 9. Aud. vt.

## TAX SALES

306. RECORD OF DELINQUENT LAND AND LOTS, 1875-. 3 vols. Record of real property subject to sale for nonpayment of taxes, showing year and amount of delinquency; tax duplicate number; location, description, and assessed valuation of property; names of owner and taxing unit; amounts of penalty, interest, and costs; and total amount due. Arr. by taxing units, thereunder alph. by names of owners. No index. Hdw. 420 pp. 18 x 12 x 3. Aud. vt.

307. REGISTER OF TAX SALES, 1844-. 6 vols. (3 vols. unlabeled; 2-4).

Record of sales of lands and lots for nonpayment of taxes, showing dates of sale and redemption; names of owner, purchaser, and redemptioner; location and description of property; numbers of tax duplicate and sale certificate; and amount of sale. Arr. by taxing units, thereunder chron. by dates of sales. No index. Hdw. 240 pp. 18 x 12 x 3. 2 vols., 1844-74, S. stor. rm., attic; 4 vols., 1875-, aud. vt.

308. TAX CERTIFICATES, 1876-. 13 f. b.

Copies of certificates of tax sales issued to purchasers of delinquent lands and lots, showing dates of certificate and redemption period; names of owner, purchaser, and taxing unit; location and description of property; amount and condition of sale; and certificate number. Arr. chron. by dates of sales. No index. Hdw. 7 x 4 x 9. 11 f. b., 1876-1930, N. stor. rm., attic; 2 f. b., 1931-, aud. off.

309. TAX RECEIPTS LAND SALES, 1878-. 2 f. b.

Treasurer's receipts for payments received from sales of delinquent lands and lots, showing date, number, and amount of receipt; name of purchaser; and description and location of property. Arr. chron. by dates of receipts. No index. Hdw. 7 x 4 x 9. 1 f. b., 1870-90, N. stor. rm., attic; 1 f. b., 1891-, aud. vt.

310. TAX SALE CERTIFICATES REDEEMED, 1886-. 4 vols., 1 f. b. Stubs of warrants issued to reimburse purchasers for tax sale

certificates redeemed, showing dates of warrant and certificate, names of purchaser and payee, amount of warrant, numbers of warrant and certificate, and location and description of property. Arr. num. by warrant nos. No index. Hdw. Vols., 12 x 6 x 1; f. b., 7 x 4 x 9. 4 vols., 1886-1922, S. stor. rm., attic; 1 f. b., 1923-, aud. vt.

OFFICIAL BONDS

(See also entries 27-32)

311. TRUSTEES' AND ASSESSORS' BONDS, 1876-. 4 vols. (1; 3 vols. unlabeled). Title varies: Record of Trustees' Bonds, 1876-86, 1 vol.

Record of bonds posted by township trustees and assessors, showing date, amount, and conditions of bond; dates of filing and approval; and names of official, sureties, and township. Also contains: School Trustees' Bond Record, June 10, 1900-1915, entry 314. Arr. chren. by dates of bonds. Indexed alph. by names of officials. Hdw. 200 pp. 16 x 11 x 2. 1 vol., 1876-80, S. stor. rm., attic; 3 vols., 1881-, aud. vt.

312. OFFICIAL BOND RECORD, 1916-. 1 vol. (2).

Record of bonds posted by county and township officials, showing date, amount, and conditions of bond; dates of filing and approval; and names of official, office, and sureties. Also contains: School Trustees' Bond Record, entry 314. Arr. chren. by dates of bonds. Indexed alph. by names of officials. Hdw. 588 pp. 18 x 12 x 4. Aud. vt.

For original bonds, 1876-, see entry 313.

313. OFFICIAL BONDS, 1876-. 1 carton, 16 f. b.

Original bonds posted by county and township officials, showing information as in entry 312. Arr. chren. by dates of bonds. No index. Hdw. Carton, 12 x 12 x 18; f. b., 7 x 4 x 9. 1 carton, 12 f. b., 1876-1914, N. stor. rm., attic; 4 f. b., 1915-, aud. vt.

314. SCHOOL TRUSTEES' BOND RECORD, July 16, 1879-June 9, 1900. 1 vol. (1). June 10, 1900-1915 in Trustees' and Assessors' Bonds, entry 311; 1916- in Official Bond Record, entry 312.

Record of bonds posted by school corporation trustees, secretaries, and treasurers, showing information as in entry 312. Arr. chren. by dates of bonds. Indexed alph. by names of principals. Hdw. 588 pp. 18 x 12 x 4. Aud. vt.

## MISCELLANEOUS

315. ENUMERATION OF WHITE AND COLORED MALES, 1907-. 79 vols. (dated). Subtitled by names of townships. Sexennial enumeration of white and colored male inhabitants 21 years of age or over, showing registration number; and name, age, address, and color of male. Arr. alph. by names of males. No index. Hdw. 100 pp. 12 x 10 x 1. Aud. vt.
316. [WELFARE PAPERS], 1936-. 1 f. d.
- Copies of documents pertaining to county department of public welfare, including:
- i. Authorizations to administer oaths and affirmations issued to officers and employees, 1938-, showing dates of authorization and filing, duration and conditions of oath, name and position of person authorized, and county code number. Arr. chron. by dates of authorization.
  - ii. Claims for personal services of employees, 1937-, showing dates and amounts of claim and warrant; name, classification, and monthly salary of employee; appropriation and warrant numbers; number of days worked; and verification and certification of claim. Arr. chron. by dates of claims.
  - iii. Claims submitted to state department of public welfare for reimbursement of burial expenses of deceased recipients of public assistance, 1937-, showing date, amount, and number of claim; names of deceased and payee; amount and number of county warrant; application number; and affidavits of verification and certification. Arr. chron. by dates of claims.
  - iv. Monthly financial reports submitted to state department of public welfare, 1937-, showing date of report, schedule, and amounts of receipts and disbursements; appropriations and balance of welfare funds; and affidavits of certification. Arr. chron. by dates of reports.
  - v. Monthly schedules of claims for services to crippled children, 1937-, showing date, nature, and amount of claim; date and amount of warrant; names of child and payee; application, claim, and warrant numbers; date of schedule; and total payment. Arr. chron. by dates of schedules.
  - vi. Old-age assistance awards, changes of award, with-

drawal certificates, and monthly allowance schedule, showing dates of filing, certificate, allowance, schedule, affidavits, and warrants; names of recipient and payee; amounts of certificate, allowance schedule, and warrant; conditions of award; change or withdrawal; application, appropriation, and warrant numbers; and certification and verification of claim register. Arr. by types of instruments, thereunder chron. by dates of instruments.

- vii. Reports to state department of public welfare of appointments to staff positions, 1937--, showing dates of appointment and approval; name, title, salary, and monthly travel allowance of appointee; and list of names of eligibles from which appointment was made. Arr. chron. by dates of appointments.

No index. Typed. 12 x 15 x 26. Aud. off.

317. STATISTICAL STATEMENTS, 1875-1911. 10 vols. Discontinued.

Record of statements of farm statistics, showing date of statement; name of farm owner or operator; farm acreage; number of acres tillable, woodlands, pasture, and wasteland; and value and quantity of stock and farm products produced, sold, and on hand. Arr. by names of taxing units, thereunder alph. by names of farm owners. No index. Hdw. 100 pp. 18 x 12 x 1. S. stor. rm., attic.

318. [HIGHWAY SUPERVISOR'S EMERGENCY PURCHASE ORDERS], 1935-. 1 bdl.

Copies of emergency purchase orders issued by highway supervisors for materials and supplies, showing date and number of order; names and addresses of consignor and consignee; and quantity, description, unit price, and total amount of order. Arr. chron. by dates of orders. No index. Typed. 5 x 6 x 4. Aud. off.

319. [HIGHWAY SUPERVISOR'S DELIVERY ORDERS], 1935-. 1 bdl. Copies of delivery orders issued by highway supervisors for materials and supplies on contracts, showing dates of order and bid; names and addresses of consignor and consignee; requisition and order numbers; and quantity, description, and unit price of materials or supplies. Arr. chron. by dates of orders. No index. Typed. 5 x 8 x 6. Aud. off.

## XVI. REGISTRATION OFFICER

## LEGAL STATUS

The clerk of the circuit court serves ex officio as the registration officer of Morgan County, under the mandatory provisions of an act of 1933 as amended in 1935.<sup>1</sup>

The registration officer may appoint as many deputy registration officers for the county as may be necessary. They are selected, as nearly as practicable, in equal numbers, from the two major political parties, on the written recommendation of the county chairman of each party. They receive a certificate of appointment which they must keep with them when about their official duties, and must take an oath administered by the clerk of the circuit court. The clerk of each city and town in the county is an ex officio deputy registration officer. A list of all deputy registration officers is kept in the office of the clerk of the circuit court, and is open to public inspection. All deputy registration officers act under the direction, supervision, and authority of the clerk of the circuit court. The appointed deputies may be removed from office by the clerk at any time.<sup>2</sup>

For each registration blank or transfer of registration which the clerk of the circuit court fills out and executes, he receives compensation in an amount (fixed by the board of county commissioners) not exceeding 4 cents. Each deputy registration officer receives compensation in an amount (fixed by the board of county commissioners) not exceeding 5 cents for each registration blank or transfer of registration which he delivers, properly filled out and executed, to the clerk of the circuit court. The board of county commissioners authorizes reasonable compensation to the clerk of the circuit court for the additional services rendered by him as registration officer.<sup>3</sup>

The constitution prescribes the qualifications of voters.<sup>4</sup> Amendments to the constitution in 1881 and 1926 directed the general assembly to provide for the registration of all persons entitled to vote.<sup>5</sup>

Many laws for registration have been enacted. An act

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<sup>1</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

<sup>2</sup> *Ibid.*

<sup>3</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-306, 29-329; Baldwin, 1935 suppl., 7304, 7327.

<sup>4</sup> Const. 1851, art. 2, sec. 2.

<sup>5</sup> *Ibid.*, sec. 14 (as amended in 1881 and 1926).

of 1867, establishing a township board of registry, consisting of the township trustee and two freeholders appointed by the board of commissioners,<sup>6</sup> was repealed in 1869.<sup>7</sup> Acts of 1889<sup>8</sup> and 1891,<sup>9</sup> providing for registration in the office of the clerk of the circuit court, were declared unconstitutional in 1890<sup>10</sup> and 1892,<sup>11</sup> respectively. An act of 1911, providing for a precinct registration board, consisting of a registration inspector (appointed by the board of commissioners) and two registration clerks (appointed by the registration inspector),<sup>12</sup> was repealed in 1917.<sup>13</sup> An act of 1917, creating a board of registration commissioners (generally called the "registration board"), consisting of the clerk of the circuit court and two qualified electors appointed by him (one from each of the two major political parties),<sup>14</sup> was repealed in 1919.<sup>15</sup> An act of 1919, creating precinct registration boards,<sup>16</sup> was amended by an act of 1925, creating a registration board consisting of the auditor and a person of opposite political faith appointed by him;<sup>17</sup> and both acts were repealed in 1927.<sup>18</sup> From 1927 until 1933 there was no registration system. Acts of 1933 and 1935 established the present system of registration.<sup>19</sup>

#### FUNCTIONS AND RECORDS

Registration of all voters is a requirement for voting at any general election, primary election, city election, or any special election in which all qualified voters of the state may participate. Such registration must be made at

<sup>6</sup> Acts 1867, ch. 51, sec. 2.

<sup>7</sup> Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

<sup>8</sup> Acts 1889, ch. 87, sec. 13.

<sup>9</sup> Acts 1891, ch. 144, sec. 1.

<sup>10</sup> Morris v. Powell (1890), 125 Ind. 281, 25 N. E. 221.

<sup>11</sup> Brewer v. McCleland (1892), 144 Ind. 423, 32 N. E. 299.

<sup>12</sup> Acts 1911, ch. 150, secs. 3-15.

<sup>13</sup> Acts 1917, ch. 139, sec. 47.

<sup>14</sup> *Ibid.*, sec. 4.

<sup>15</sup> Acts 1919, ch. 150, sec. 1.

<sup>16</sup> *Ibid.*, ch. 186, sec. 4.

<sup>17</sup> Acts 1925, ch. 138, sec. 1.

<sup>18</sup> Acts 1927, ch. 195, sec. 1.

<sup>19</sup> Acts 1933, ch. 178. Acts 1935, ch. 221.

The 1933 act was held constitutional. *Blue v. State ex rel. Brown* (1934), 206 Ind. 98, 188 N. E. 583.

least 29 days before the election.<sup>20</sup> On proper application every person is entitled to register for voting in the precinct in which he resides, provided such person (a) will be at least 21 years old at the next ensuing general election or city election, (b) is a citizen of the United States, and (c) will, at the time of such election (if he continues to reside in the same ward or precinct), have resided in the state 6 months, in the township 60 days, and in the ward or precinct 30 days.<sup>21</sup>

The registration officer has full charge and control of the registration of the voters and provides all the necessary books and supplies.<sup>22</sup> The deputy registration officers may register voters at such places within the county as the clerk of the circuit court shall designate and which will be deemed most convenient to large numbers of voters without reference to precincts.<sup>23</sup> They can administer all oaths required by the registration laws.<sup>24</sup>

The "official registration books" consist of the original affidavits of registration<sup>25</sup> and constitute a permanent registration record. The clerk also keeps a duplicate set of these affidavits.<sup>26</sup> The clerk, not later than 10 days before the election, prepares typewritten or photostatic copies of the registration list of each precinct in the county, and delivers one copy to the county chairman of each of the two major political parties. Two copies of the list are delivered to each election inspector, as a part of the sealed package of election supplies, to be used at the polls on election day. Other copies may be publicly inspected at the office of the clerk as soon as they are completed.<sup>27</sup> Registration supplies and the original affidavits of registration are delivered by

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<sup>20</sup> Acts 1933; Burns 29-301, 29-307, 29-335; Baldwin 7299, 7305, 7333. Acts 1933, 1935; Burns, 1939 suppl., 29-336; Baldwin, 1935 suppl., 7334.

<sup>21</sup> Acts 1933; Burns 29-328; Baldwin 7326.

<sup>22</sup> Acts 1933; Burns 29-309; Baldwin 7307.

Manner of registering. Acts 1933; Burns 29-308 to 29-313; Baldwin 7306 to 7311.

Penalty for false statement, false signature, or violation of registration law. Acts 1933; Burns 29-339; Baldwin 7337.

<sup>23</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-311; Baldwin, 1935 suppl., 7309.

<sup>24</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

<sup>25</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-313; Baldwin, 1935 suppl., 7311. Acts 1933; Burns 29-315, 29-316; Baldwin 7313, 7314.

<sup>26</sup> Acts 1933; Burns 29-302; Baldwin 7300.

<sup>27</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-317; Baldwin, 1935 suppl., 7315.

the clerk to the election inspectors for use at the voting places on election day, and are returned to the clerk when the precinct officials complete their duties.<sup>28</sup>

Except as hereinafter otherwise stated, any voter whose name was placed on the registration books of any precinct in this state after May 21, 1933 while such voter was a resident of that precinct is not required to register again, so long as (a) he continues to reside in the same county in which he is registered and (b) is not disfranchised for any cause prescribed by the laws of the state and (c) his registration is not canceled.<sup>29</sup> The clerk will cancel the registration of any voter who requests such cancellation.<sup>30</sup>

On a change of residence within the county, any registered voter may cause his registration to be transferred to his new address by sending a transfer to the clerk or by applying in person to the clerk for such transfer. If a voter changes his residence from the county in which he is registered to some other county, he must register in the proper precinct of the county to which he has moved and sign a printed form authorizing the cancellation of the previous registration. Within 15 days thereafter the clerk of the latter county forwards this document to the clerk of the former county, who cancels the previous registration.<sup>31</sup>

When the address of a voter (at which the voter continues to reside) is transferred to another precinct by a change of precinct boundaries or by creation of a new precinct, the clerk must transfer the voter's registration accordingly, and it is not necessary for the voter to apply for such transfer.<sup>32</sup>

If the clerk of the circuit court mails to a registered voter, at his registered address, a notice stating that the clerk has received information (specifying the source thereof) that the voter has moved away from the county, precinct, or address at which he is registered, the registration of the voter will be canceled unless the voter applies for a continuance of registration within 30 days after the mailing of the notice.<sup>33</sup>

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<sup>28</sup> Acts 1933; Burns 29-316, 29-331; Baldwin 7314, 7329.

<sup>29</sup> Acts 1933; Burns 29-303, 29-308; Baldwin 7301, 7306.

<sup>30</sup> Acts 1933; Burns 39-324, 29-327; Baldwin 7322, 7325.

<sup>31</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-314; Baldwin, 1935 suppl., 7312.

<sup>32</sup> Acts 1933; Burns 29-318, 29-319; Baldwin 7316, 7317.

<sup>33</sup> Acts 1933; Burns 29-326, 29-327; Baldwin 7324, 7325.

If a voter's name is changed by marriage or by court order, the voter's previous registration cannot serve as a basis for voting unless before receiving a ballot the voter files a verified statement setting forth the name under which such voter is registered and the name of such voter as changed. This statement may be filed with the clerk of the circuit court on any day or with another member of the election board on election day.<sup>34</sup>

Any voter of the county or city may challenge the registration of any registered voter of such county or city by submitting an affidavit to the clerk of the circuit court, not later than 2 weeks before any primary election, general election, or city election. This affidavit must state that such voter is not qualified to vote in the precinct in which he is registered and must specify reasons why such challenged voter is disqualified. The clerk then mails to the challenged voter, at his registered address, a notification of such challenge. In order to vote at such election the challenged voter must take an oath as required by law for voters challenged at an election. The oath may be taken before the clerk within 7 days after mailing the notice or may be taken before the election inspector at the election.<sup>35</sup>

During the month of January following each general election the clerk must examine the registration books of each precinct and must note the names of all voters who have not voted within a period of 2 years. The clerk must then mail to each such voter, at his last known address, a notice on a printed form prescribed by law. The registration of any such voter will be canceled unless the voter applies for reinstatement of registration within 30 days after the mailing of such notice.<sup>36</sup>

It is the duty of the registration officer to check the registration lists continually for deceased and disfranchised voters. Lists of deceased voters are obtained from local health officers, and the clerk prepares a list of all disfranchised voters.<sup>37</sup>

If the board of county commissioners determines that the registration books of any precinct have been destroyed or mutilated or are inaccessible or for any other reasonable

<sup>34</sup> Acts 1933; Burns 29-320; Baldwin 7328.

<sup>35</sup> Acts 1933; Burns 29-325, 29-327; Baldwin 7323, 7325.

<sup>36</sup> Acts 1933; Burns 29-320; Baldwin 7318.

<sup>37</sup> Acts 1933; Burns 29-321, 29-322, 29-327; Baldwin 7319, 7320, 7325.

cause unfit to be used, a new registration must be conducted in that precinct and every voter residing in that precinct must register.<sup>38</sup>

The expense of the preparation of registration is paid out of the general fund of the county treasury, as directed by the board of county commissioners, after appropriation by the county council. The expense of preparing lists of registered voters for use in a city election is paid by the city, after appropriation by its common council.<sup>39</sup>

All forms, blanks, records, and other supplies used in registration of voters are prescribed by the state board of election commissioners for the purpose of uniformity in the registration records of the state.<sup>40</sup>

320. [MASTER FILE VOTERS' REGISTRATION CARDS], 1931-. 6 f. d.

Registration cards of all voters in county, showing date of registration; name, age, sex, address, place of birth, and period of residence in township and precinct of voter; names of registration officer, witnesses, and township; and registration, precinct, and ward numbers. Arr. by twps., thereunder alph. by names of voters. No index. Hdw. 5 x 12 x 24. Clk. off.

321. [PRECINCT BINDERS], 1931-. 38 vols.

Registration affidavits of all voters in each precinct of county, showing information as in entry 320. Arr. alph. by names of voters. No index. Hdw. 14 x 10 x 1. Clk. off.

322. [VOTERS' TRANSFER FILE], 1931-. 4 f. b.

Voters' registration transfer cards, showing date of transfer; names of voter and registration officer; address of registrant; and ward, precinct, and transfer numbers. Arr. alph. by names of voters. No index. Hdw. 3 x 12 x 24. Clk. off.

323. [VOTERS' CANCELATION FILES], 1931-. 2 f. b.

Registration cards removed from master file and precinct binders because of death, removal from county, or failure of registrant to vote over a period of 2 years, showing dates of registration and cancelation; name, address, age, and sex of registrant; names of registration officer, witnesses, and township; political affiliation; and registration and precinct numbers. Arr. alph. by names of voters. No index. Hdw. 6 x 8 x 18. Clk. off.

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<sup>38</sup> Acts 1933; Burns 29-304; Baldwin 7302.

<sup>39</sup> Acts 1933; Burns 29-305; Baldwin 7303.

<sup>40</sup> Acts 1933; Burns 29-334; Baldwin 7332.

324. NOTICE OF INTENTION TO HOLD RESIDENCE, 1890-92. 1 vol. Register of electors' notices of intention to hold residence, showing date of notice; name, age, and address of elector; names of township and city or town; and ward and precinct numbers. Arr. chron. by dates of notices. Indexed alph. by names of electors. Hdw. 300 pp. 18 x 10 x 2½. S. stor. rm., attic.

## XVII. BOARD OF PRIMARY ELECTION COMMISSIONERS

### LEGAL STATUS

The board of primary election commissioners of Morgan County exists under the mandatory provisions of an act of 1915, as amended in 1917. The board is composed of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairmen).<sup>1</sup> The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof throughout the preceding year, must reside within the county after their appointment,<sup>2</sup> must serve as members of the county board of canvassers and county board of election commissioners during the calendar year in which they were appointed,<sup>3</sup> must not hold any other appointive or elective public office,<sup>4</sup> and must take an oath to support the state and federal constitutions and faithfully discharge their duties.<sup>5</sup> Each member of the board is allowed \$75 for his services at any primary election.<sup>6</sup>

For sufficient legal grounds any member of the board of primary election commissioners may be removed from office by the circuit court, after trial by jury on an accusation

<sup>1</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190. The amendment of 1917 merely added a compensatory provision which was superseded by an act of 1935. See footnote 6 herein.

<sup>2</sup> Const. 1851, art. 6, secs. 4, 6.

<sup>3</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1905, 1927; Burns 29-1401; Baldwin 7377. See the essays entitled "County Board of Canvassers" and "County Board of Election Commissioners."

<sup>4</sup> Acts 1915, 1917; Burns 29-512; Baldwin 7193.

<sup>5</sup> Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>6</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

Mandamus to compel appropriation for compensation. Blue v. State *ex rel.* Powell (1936), 210 Ind. 486, 1 N. E. (2d) 122.

presented by the grand jury or verified by the oath of any person, and such removal is subject to review by the supreme court.<sup>7</sup> If any member is convicted of a felony the judgment of conviction must declare his office vacant.<sup>8</sup> A vacancy in the office of an appointed member is filled through appointment by the clerk of the circuit court.<sup>9</sup>

Before 1907 nominations were strictly a party affair. At first candidates were proposed by a mass meeting, or by an informed caucus which could be a meeting of all the voters of the party in the precinct or other political units. Out of the latter developed the party convention—an assembly of official delegates chosen by the electors of the party at primary elections.<sup>10</sup>

Indiana was one of the first states to adopt the primary election as a means of choosing candidates. The law of 1889, which instituted the Australian ballot system, recognized the right of a political party to hold a primary election, under the control of the chairman who certified the names of the nominees to the county board of election commissioners.<sup>11</sup>

An act of 1901, applicable to all political parties casting 10 percent of the total vote at the preceding general election, provided for the organization of political parties and the holding of two primary elections—one for precinct committeemen, and one for direct nomination of candidates or for election of delegates to a nominating convention. The precinct committeemen elected at the first primary election determined whether the party candidates should be nominated at a primary election or by a delegate convention. For a primary election the party chairman was required to fix the date thereof and deliver to the county board of election commissioners the names of the candidates proposed by petition. This board was required to prepare the primary ballot. No two political parties could hold their primaries at the same time or place. Returns were made to the party board of primary election commissioners. This board de-

<sup>7</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>8</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>9</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

For vacancy in the office of clerk, See the essay entitled "Clerk of the Circuit Court."

<sup>10</sup> Alma Sickler Bender, *Why Go Back? . . . from the Direct Primary to the Convention System of Nomination* (Indianapolis, 1930), 21.

<sup>11</sup> Acts 1889, ch. 87, secs. 17, 18, 26.

clared the nominees of the party, and the chairman of the board certified their names to the county board of election commissioners.<sup>12</sup>

An act of 1907 prescribed a compulsory direct primary election, under the supervision of a county board of primary election commissioners, for the nomination of party candidates for all county and township offices. This board consisted of the same membership as at present and its members acted as election commissioners at the general election. This primary election included all political parties casting 10 percent of the total vote at the preceding general election, and was conducted by bipartisan precinct election boards paid from county funds.<sup>13</sup>

#### FUNCTIONS AND RECORDS

The present primary election law is mandatory as to each political party casting in the county for its candidate for secretary of state 10 percent of the aggregate vote cast in the county for all candidates for secretary of state at the last preceding general election. This law provides for the nomination of candidates and the election of precinct committeemen and state convention delegates of all such political parties, all in one primary election held biennially, at the same time and place, on the 1st Tuesday after the 1st Monday in May, in the even-numbered years.<sup>14</sup>

The board of primary election commissioners supervises primary elections. It prepares and distributes all ballots used in the county (except for town primaries)<sup>15</sup>—the names of candidates being arranged thereon in alphabetical order.<sup>16</sup> At all primary elections the Australian ballot is used. It is made up of the printed tickets of the several political parties qualified for participation in the election. The tickets of each party are on paper of a color not used for

<sup>12</sup> Acts 1901, ch. 219, secs. 1-4, 6-11, 25.

<sup>13</sup> Acts 1907, ch. 282, secs. 1, 2, 6, 10-15, 22, 57.

<sup>14</sup> Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1925, 1929; Burns 29-511, 29-512; Baldwin 7196, 7197. Acts 1915, 1939; Burns, 1939 suppl., 29-532; Baldwin, 1939 suppl., 7218.

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." State *ex rel.* Democratic Central Committee v. Superior Court (1938), 214 Ind. 322, 15 N. E. (2d) 379.

<sup>15</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

<sup>16</sup> Acts 1915, 1937; Burns, 1939 suppl., 29-515; Baldwin, 1937 suppl., 7201.

the tickets of the other parties, but all tickets are uniform in size.<sup>17</sup>

Between 30 and 60 days before any primary election the declarations of candidacy for the office of United States Senators and Representatives, state senators and representatives, and judicial officers (including the judge of the circuit court, prosecuting attorney, and justices of the peace) are filed by the candidates with the secretary of state and are certified by him to the clerk of the circuit court; and during the same time the declarations of candidacy for other offices (except town offices and those voted on by the voters of the whole state) are filed by the candidates with the clerk of the circuit court. Nominations for these offices are made at the primary election.<sup>18</sup> Nominations for delegates to the state conventions of the respective political parties are made by petitions filed with the clerk at least 30 days before the primary election. These delegates are elected at the primary election.<sup>19</sup>

Primary elections are conducted by the following officials in each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one poll-book holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote in the county for secretary of state at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriffs and pollbook holders are appointed in the manner in which they are appointed for general elections. Each of these officials is allowed \$3 per day for his services rendered in connection with a primary election.<sup>20</sup> The board of primary election

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<sup>17</sup> Acts 1915, 1917; Burns 29-504, 29-514; Baldwin 7190, 7200.

<sup>18</sup> Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1933, 1935; Burns, 1939 suppl., 29-513; Baldwin, 1935 suppl., 7199. Acts 1915, 1931, 1935; Burns, 1939 suppl., 29-516; Baldwin, 1935 suppl., 7202. Acts 1933; Burns 29-1807; Baldwin 11639.

The prosecuting attorney is a judicial officer. State *ex rel.* Freed v. Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910; State *ex rel.* Spencer v. Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

<sup>19</sup> Acts 1915, 1939; Burns, 1939 suppl., 29-532; Baldwin, 1939 suppl., 7218.

<sup>20</sup> Acts 1915, 1917; Burns 29-505, 29-507, 29-519; Baldwin 7191, 7193, 7205. Acts 1929, 1933;

commissioners may employ all necessary clerical assistants.<sup>21</sup>

The statutory provisions governing the manner of conducting general elections apply to all primary elections.<sup>22</sup> All expenses of conducting primary elections are paid from public funds.<sup>23</sup>

Certificates and petitions of nominations, ballots (cast and uncast), and tally papers at primary elections are filed in the office of the clerk of the circuit court where they are preserved for 6 months and then destroyed, unless litigation requires preservation for a longer time.<sup>24</sup>

325. [CANDIDATES' PETITIONS], 1936-. 4 bdls.

Candidates' petitions to seek nomination for public office at primary elections, showing date of petition; name, age, sex, and address of candidate; names and addresses of petitioners; and names of office sought and political affiliation. Arr. chron. by dates of petitions. No index. Typed. 4 x 8 x 3. S. stor. rm., attic.

326. [ABSENT VOTERS' RECORD], 1936-. 1 vol.

Record of ballots cast by absentee voters in primary elections, showing dates of application, mailing ballot, and election; name and home address of elector; name of township; precinct and ward numbers; and address of absentee voter. Also contains: [Absent Voters' Record, General Election], entry 330. Arr. by twps., thereunder num. by precinct nos. No index. Hdw. 160 pp. 12 x 10 x 2. Clk. off.

327. [CANDIDATES' STATEMENTS OF ELECTION EXPENSES], 1926, 1936-. 1 f. b., 4 bdls.

Duplicate statements of primary election expenses filed by candidates for various public offices, showing dates of election, statement, and filing; names of candidate and office sought; itemized account of campaign expenditures; and total. Also contains: [Candidates' Expenses, General Elections], entry 331. Arr. chron. by dates of filing. No index. Hdw. F. b., 7 x 4 x 9; bdls., 4 x 8 x 3. 1 f. b., 1926, S. stor. rm., attic; 4 bdls., 1936-, clk. off.

Burns 29-804 to 29-807; Baldwin 7093 to 7096. Finerty v. Bryan (1938), 214 Ind. 570, 16 N. E. (2d)

882. See the essay entitled "County Board of Election Commissioners."

<sup>21</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

<sup>22</sup> Acts 1915; Burns 29-556, 29-559; Baldwin 7242, 7244.

<sup>23</sup> Acts 1915; Burns 29-534; Baldwin 7220. Acts 1933; Burns 29-1805; Baldwin 11637.

<sup>24</sup> Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1889; Burns 29-1009; Baldwin 7113.

Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911; Burns 29-2510; Baldwin 7447.

## XVIII. COUNTY BOARD OF CANVASSERS

## LEGAL STATUS

The board of canvassers of Morgan County exists under the mandatory provisions of an act of 1905, as amended in 1927. The county board which controls the holding of an election (board of primary election commissioners) must also serve as the county board of canvassers at that election.<sup>1</sup> The board elects its own chairman, and the clerk of the circuit court acts as its clerk.<sup>2</sup>

Before 1843 the election judges and inspectors canvassed the votes and certified the results of the election.<sup>3</sup> The board of canvassers, established in 1843, consisted of the inspectors from the several townships, who selected one of its members as chairman. The clerk of the circuit court served as clerk. This board was continued until 1905.<sup>4</sup>

## FUNCTIONS AND RECORDS

Each precinct board of election,<sup>5</sup> after closing the polls in its precinct,<sup>6</sup> views the ballots cast in that precinct; counts those ballots which are legal; rejects those ballots which are illegal; marks on each ballot the word "counted" or the words "not counted"; makes notations as to rulings on protests; lists the number of votes counted in favor of each candidate; lists the number of votes counted for and against proposed constitutional amendments and other questions submitted to the voters for decision; and transmits in sealed bags to the county board of canvassers all ballots cast, ballots uncast, lists, tally papers, memoranda, and certificates.<sup>7</sup>

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<sup>1</sup> Acts 1905, 1927; Burns 29-1401; Baldwin 7377. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

The amendment of 1927 merely added a provision applicable only to Marion County.

<sup>2</sup> Acts 1905; Burns 29-1402; Baldwin 7378.

<sup>3</sup> Acts 1816-17, ch. 9, secs. 11, 12. Acts 1817-18 (general), ch. 15, secs. 11, 12. Rev. Laws 1824, ch. 35, secs. 11, 12. Rev. Laws 1831, ch. 32, secs. 11, 12. Rev. Stat. 1838, ch. 32, secs. 13, 14.

<sup>4</sup> Rev. Stat. 1843, ch. 5, secs. 45-47. 1 Rev. Stat. 1852, ch. 31, secs. 31-33. Acts 1881 (Spec. Sess.), ch. 47, sec. 38.

<sup>5</sup> The organization of the precinct boards is discussed in the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

<sup>6</sup> Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

<sup>7</sup> Primary elections. Acts 1915, 1917; Burns 29-525; Baldwin 7211.

General elections. Acts 1897, 1901, 1909; Burns 29-1301; Baldwin 7147.

The members of the county board of canvassers are required to assemble at 6 p. m. on the day of each general election, in the courtroom of the circuit court; to canvass and estimate the certificates, poll lists, and tally papers returned by each precinct board of election in the county;<sup>8</sup> to compare and examine the papers entrusted to it; to aggregate and tabulate therefrom all votes cast in the county; and to declare in a certified statement the candidates elected for the county, and each city and township thereof, and the determination of any proposed constitutional amendment or other question submitted to the voters.<sup>9</sup>

In case of a tie vote for any office, the board declares that no person was elected for that office; and the clerk must certify the facts to the tribunal or officer required to fill vacancies in such office or to issue a writ of election to fill the office, as the case may require.<sup>10</sup>

In case of a disagreement among the members of the county board of canvassers as to how the vote of any precinct shall be counted, the matter in dispute must be reported immediately to the judge of the circuit court for immediate determination.<sup>11</sup>

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff executes all process and orders directed to him by the board.<sup>12</sup>

The board of canvassers employs necessary clerical

<sup>8</sup> Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

<sup>9</sup> Acts 1905; Burns 29-1404, 29-1405, 29-1407; Baldwin 7380, 7381, 7383. *Moore v. Kessler* (1877), 59 Ind. 152.

Duty to disregard ballots improperly marked by voters. *Craney v. Traylor* (1938), 214 Ind. 542, 16 N. E. (2d) 845.

Legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1503 to 29-1505; Baldwin 7180 to 7182.

Judges, prosecuting attorney, state officers, and federal officers. Acts 1881 (Spec. Sess.); Burns 29-1506 to 29-1509; Baldwin 7183 to 7186.

Constitutional amendments. Const. 1851, art. 16, secs. 1, 2. Acts 1889; Burns 29-1201, 29-1202; Baldwin 7259, 7258. Acts 1911; Burns 29-1203 to 29-1207; Baldwin 7253 to 7257. *In re Todd* (1935), 208 Ind. 168, 193 N. E. 865.

<sup>10</sup> Acts 1905; Burns 29-1406; Baldwin 7382

Tie vote for state legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1505; Baldwin 7182.

<sup>11</sup> Acts 1905; Burns 29-1409; Baldwin 7385.

<sup>12</sup> Acts 1905; Burns 29-1408; Baldwin 7384.

assistants for the proper canvassing and tabulating of votes. Not more than one-half of the clerks employed can be from the same political party, and their compensation must not exceed \$1 per hour.<sup>13</sup>

The canvass of votes in primary<sup>14</sup> and special<sup>15</sup> elections, including votes cast for city<sup>16</sup> and township officers,<sup>17</sup> is made in the same manner as in the general election.

The ballots cast, ballots uncast, certificates, statement of all votes tabulated, canvass sheets, pollbooks, and tally papers are delivered to the clerk of the circuit court and filed and preserved by him in his office, open to the inspection of any legal voter. These are destroyed after 6 months unless litigation requires longer preservation.<sup>18</sup>

328. [RECORD OF VOTES], 1924-. 1 vol.

Record of votes cast in primary and general elections, showing date of election; names of political parties, townships, offices, and candidates; ward and precinct numbers; number of votes cast for each candidate by townships, wards, and precincts; and total votes cast. Arr. chron. by dates of elections. No index. Hdw. 500 pp. 18 x 22 x 4. Clk. off.

For tally sheets for elections, see entry 329.

329. [TALLY SHEETS], 1924-. 77 bdls.

Tally sheets for primary and general elections, showing same information as in entry 328, and also names of canvassers. Arr. chron. by dates of elections. No index. Hdw. 12 x 16 x 4. N. stor. rm., attic.

## XIX. COUNTY BOARD OF ELECTION COMMISSIONERS

### LEGAL STATUS

The board of election commissioners of Morgan County exists under the mandatory provisions of an act of 1889. The board consists of the clerk of the circuit court and two

<sup>13</sup> Acts 1920 (Spec. Sess.); Burns 29-913; Baldwin 7158.

<sup>14</sup> Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1915; Burns 29-560; Baldwin 7245.

<sup>15</sup> Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881 (Spec. Sess.); Burns 29-1704; Baldwin 7249.

<sup>16</sup> Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1803, 29-1807; Baldwin 11635, 11639.

<sup>17</sup> Acts 1933; Burns 29-1903; Baldwin 7252.

<sup>18</sup> Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1905; Burns 29-1404; Baldwin 7380.

persons appointed by him (one from each of the two major political parties, nominated by their respective county chairmen).<sup>1</sup> The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof throughout the preceding year, must reside within the county after their appointment,<sup>2</sup> must serve as members of the county board of canvassers, and must take an oath to support the state and federal constitutions and faithfully discharge their duties.<sup>3</sup> Each member of the board is allowed \$75 for his service at any general or special election.<sup>4</sup>

For sufficient legal grounds any member of the county board of election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.<sup>5</sup> If any member is convicted of a felony the judgment of conviction must declare his office vacant.<sup>6</sup> The clerk of the circuit court fills vacancies as to members appointed by him.<sup>7</sup>

With the organization of Morgan County in 1822<sup>8</sup> the board of county commissioners laid off townships<sup>9</sup> and appointed an inspector of elections in each.<sup>10</sup> Blank forms of pollbooks and election returns were delivered by the sheriff to these inspectors before the election.<sup>11</sup> After 1831 the

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<sup>1</sup> Acts 1889; Burns 29-1002; Baldwin 7109.

<sup>2</sup> Const. 1851, art. 6, secs. 4, 6.

<sup>3</sup> *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Canvassers."

For the eligibility, election, term, oath, and bond of the clerk of the circuit court, see the essay entitled "Clerk of the Circuit Court."

<sup>4</sup> Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

<sup>5</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>6</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>7</sup> Acts 1915, 1917; Burns 29-504; Baldwin 7190.

See the essay entitled "Clerk of the Circuit Court" for vacancy in the office of clerk.

<sup>8</sup> Acts 1821-22, ch. 24, sec. 1.

<sup>9</sup> Acts 1817-18 (general), ch. 17, sec. 2.

<sup>10</sup> Acts 1816-17, ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, sec. 3. Rev. Laws 1824, ch. 35, sec. 1.

<sup>11</sup> Acts 1816-17, ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1. Rev. Laws 1824, ch. 35, sec. 1.

inspectors were elected by the voters of the township;<sup>12</sup> and after 1852 the clerk of the circuit court delivered to the sheriff a certificate showing which offices were to be filled at the election. The sheriff posted a copy of this certificate at each usual place of holding elections, published it in some newspaper of the county, and delivered a copy to each township clerk<sup>13</sup> or trustee.<sup>14</sup> The board of county commissioners designated the precincts,<sup>15</sup> and furnished supplies (including ballot boxes but not ballots).<sup>16</sup> After 1881 the auditor furnished printed forms (but not ballots)<sup>17</sup> and the board of county commissioners furnished the ballot boxes.<sup>18</sup> Before 1889 voting was by ballot furnished by the voter.<sup>19</sup> The president of the board of township trustees from 1853 to 1859<sup>20</sup>—the township trustee since 1859—served ex officio as inspector of elections<sup>21</sup> in the precinct in which he resided,<sup>22</sup> and the board of county commissioners appointed inspectors in all additional precincts.<sup>23</sup> The election board of the precinct was composed of the inspector, election judges, and poll clerks. The judges were appointed by the inspector, and the clerks were appointed by the inspector and judges.<sup>24</sup> After 1881 they were chosen from the two political parties casting the highest number of votes in the last preceding general election.<sup>25</sup>

Indiana, in 1889, was one of the first states to adopt the Australian ballot—an official ballot printed at public

<sup>12</sup> Rev. Laws 1831, ch. 20, sec. 20.

<sup>13</sup> 1 Rev. Stat. 1852, ch. 31, sec. 2.

<sup>14</sup> Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082.

<sup>15</sup> 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1881 (Spec. Sess.), ch. 47, sec. 8.

<sup>16</sup> 1 Rev. Stat. 1852, ch. 31, secs. 11, 12.

<sup>17</sup> Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

<sup>18</sup> *Ibid.*, sec. 18.

<sup>19</sup> Const. 1816, art. 6, sec. 2. Const. 1851, art. 2, sec. 13. Acts 1816-17, ch. 9, secs. 6-8, 11. Acts 1817-18 (general), ch. 15, sec. 8 Rev. Laws 1824, ch. 35, secs. 6-8, 11. Rev. Laws 1831, ch. 32, secs. 6-8, 11. Rev. Stat. 1838, ch. 32, secs. 6-8, 13. Rev. Stat. 1843, ch. 5, secs. 30-33, 40, 41, 44. 1 Rev. Stat. 1852, ch. 31, sec. 17. Acts 1881 (Spec. Sess.), ch. 47, sec. 23.

<sup>20</sup> 1 Rev. Stat. 1852, ch. 31, sec. 3.

<sup>21</sup> Acts 1859; Burns 65-105; Baldwin 16065. Holmes v. Board of County Comrs. (1922), 78 Ind. App. 206, 135 N. E. 154.

<sup>22</sup> Acts 1881 (Spec. Sess.), ch. 47, sec. 10.

<sup>23</sup> 1 Rev. Stat. 1852, ch. 31, sec. 4.

<sup>24</sup> Acts 1817-18 (general), ch. 15, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 4.

<sup>25</sup> Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

expense by public officers and distributed at the polls by the election officers. The board of election commissioners was established to prepare, print, and distribute the ballots and otherwise administer the election laws of the county.<sup>26</sup>

#### FUNCTIONS AND RECORDS

The constitution fixes the date of general elections as the 1st Tuesday after the 1st Monday in November,<sup>27</sup> and an act of the general assembly provides that they be conducted biennially in the even-numbered years.<sup>28</sup> At least 20 days before the election the clerk of the circuit court makes a certificate stating which offices are to be filled at the election. Fifteen days before the election the sheriff delivers a copy of this certificate to each township trustee in the county, posts a copy at each usual place of holding such elections in the county, and causes the publication of a copy one time in a newspaper printed in the county.<sup>29</sup> The constitution further provides that all elections by the people must be by ballot.<sup>30</sup> This provision does not prevent the use of voting machines<sup>31</sup> (to be provided by the board of county commissioners).<sup>32</sup>

The board of county commissioners establishes the precincts<sup>33</sup> and provides all polling places and ballot boxes<sup>34</sup> and the auditor furnishes blank pollbooks and other forms to the inspectors.<sup>35</sup>

The county board of election commissioners supervises general elections.<sup>36</sup> The state board of election commission-

<sup>26</sup> Acts 1889, ch. 87, secs. 18, 26.

<sup>27</sup> Const. 1851, art. 2, sec. 14 (as amended in 1881).

<sup>28</sup> Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

<sup>29</sup> Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082. *Parmater v. State ex rel. Drake* (1884), 102 Ind. 90, 3 N. E. 382.

<sup>30</sup> Const. 1851, art. 2, sec. 13.

Marking of ballots by voters. *Craney v. Traylor* (1938), 214 Ind. 542, 16 N. E. (2d) 845.

<sup>31</sup> *Spickerman v. Goddard* (1914), 182 Ind. 523, 107 N. E. 2.

<sup>32</sup> Acts 1920 (Spec. Sess.); Burns 29-903; Baldwin 7148. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

<sup>33</sup> Acts 1889; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

<sup>34</sup> Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

<sup>35</sup> Acts 1889; Burns 29-808; Baldwin 7097.

<sup>36</sup> Acts 1889; Burns 29-1116, 29-1117, 29-1119, 29-1120; Baldwin 7130, 7131, 7133, 7134. Acts 1903; Burns 29-2407; Baldwin 7355. Acts 1901; Burns 29-2410, 29-2426, 29-2428; Baldwin 7358, 7374, 7376.

ers prepares and distributes to the county clerks the ballots for federal offices and for offices and questions to be voted on by the voters of the whole state. The county board of election commissioners prepares and distributes all other ballots used in the county (except for town elections).<sup>37</sup> Candidates nominated by convention or primary election by parties casting one-half of 1 percent of the total vote of the state at the last preceding general election, and whose nominations have been duly certified to the clerk of the circuit court, are placed on the ballot under their respective party emblems. Candidates' names may be placed on the ballot by the petition of the required number (one-half of 1 percent of the total vote cast in the last preceding general election in the county) of qualified electors.<sup>38</sup> Political parties may be barred from the ballot if they advocate the overthrow, by force or violence, of the local, state, or national government. New parties must file, with the election commissioners in charge of the ballot or ballots on which they wish to appear, an affidavit declaring that they do not advocate such an overthrow.<sup>39</sup>

In each precinct there is a "precinct board of election" composed of one inspector and two election judges. The election is conducted by these boards. Each precinct board is assisted by two election sheriffs, two poll clerks, and (if necessary) two assistant poll clerks. No person is eligible to membership on a precinct board if he has a wager on the result of the election or is a candidate or a relative of a candidate at that election. The township trustee is ex officio inspector in his own precinct. The other inspectors are appointed by the board of election commissioners on nominations made by the county chairman of the party casting the highest number of votes in the county for secretary of state in the preceding election. The election judges, sheriffs, poll clerks, and assistant poll clerks are of opposite political faith and are appointed by the board of election commissioners on nominations made by the county chairmen of the

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<sup>37</sup> Acts 1889; Burns 29-1001 to 29-1003; Baldwin 7108 to 7110. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Acts 1889, 1891, 1907; Burns 29-1109; Baldwin 7124.

Ballot label for voting machines. Acts 1901; Burns 29-2410; Baldwin 7538.

<sup>38</sup> Acts 1897, 1919, 1933; Burns 29-1106; Baldwin 7120. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Board of Election Comrs. v. State *ex rel.* Sides (1897), 148 Ind. 675, 48 N. E. 226; State *ex rel.* Garn v. Board of Election Comrs. (1906), 167 Ind. 276, 78 N. E. 1016.

<sup>39</sup> Acts 1935; Burns, 1939 suppl., 29-1015; Baldwin, 1935 suppl., 7120-1.

two major political parties.<sup>40</sup> For their services at general elections the precinct election officials are compensated as follows: Each appointed inspector, \$8; each election judge, \$5; each poll clerk, \$5; each assistant poll clerk, \$5; and each election sheriff, \$8. The township trustee receives no compensation for his services as election inspector.<sup>41</sup> Each political party may appoint one challenger and one pollbook holder for each precinct, and must pay each of them compensation not exceeding \$8. These employees receive no compensation from public funds.<sup>42</sup>

Since 1933 city<sup>43</sup> and township<sup>44</sup> elections have been held at the time of the general election. They are under the supervision of the county board of election commissioners,<sup>45</sup> as are all special elections.<sup>46</sup>

Elections are open from 6 a. m. until 4 p. m. after which time the precinct election board may close the election in any precinct at any time when all the electors of that precinct have voted or when 15 minutes have passed without a vote having been cast in that precinct. Elections are open until 6 p. m. unless previously closed as aforesaid.<sup>47</sup> All pencils used in marking the ballots must be destroyed before the counting of ballots begins.<sup>48</sup>

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff serves all process in county elections and obeys orders of the board.<sup>49</sup>

Records of all general elections are placed in sealed bags and filed in the office of the clerk of the circuit court for preservation as provided by statute.<sup>50</sup>

<sup>40</sup> Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

<sup>41</sup> Acts 1920 (Spec. Sess.), 1933; Burns 29-910; Baldwin 7155. Holmes v. Board of County Comrs. (1922), 78 Ind. App. 206, 135 N. E. 154.

<sup>42</sup> Acts 1929; Burns 29-806; Baldwin 7095.

<sup>43</sup> Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1801; Baldwin 11632.

<sup>44</sup> Acts 1933, 1935; Burns, 1939 suppl., 29-1901; Baldwin, 1935 suppl., 7250.

<sup>45</sup> Acts 1933; Burns 29-1803; Baldwin 11635.

<sup>46</sup> Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881; Burns 29-1704; Baldwin 7249.

<sup>47</sup> Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

<sup>48</sup> Acts 1915; Burns 29-1305; Baldwin 7457.

<sup>49</sup> Acts 1905; Burns 29-1408; Baldwin 7384.

<sup>50</sup> Rev. Laws 1824, ch. 35, sec. 14. Acts 1920 (Spec. Sess.); Burns 29-912; Baldwin 7157. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447. State *ex rel.* Kollmeyer v. Baker (1932), 204 Ind. 18, 182 N. E. 537.

330. [ABSENT VOTERS' RECORD, GENERAL ELECTIONS], 1936-.  
In [Absent Voters' Record], entry 326.

Record of ballots cast by absentee voters in general elections,  
showing information as in entry 326.

331. [CANDIDATES' EXPENSES, GENERAL ELECTIONS], 1926, 1936-.  
In [Candidates' Statements of Election Expenses],  
entry 327.

Duplicate statements of general election expenses filed by  
candidates for various public offices, showing information  
as in entry 327.

## XX. COUNTY BOARD OF EDUCATION

### LEGAL STATUS

The county board of education exists under the mandatory provisions of an act of 1873, as amended in 1877. The board consists of the county superintendent of schools, the township trustees, and the president of the school board of each city and town in the county. Before 1877 all the school trustees of each city and town in the county were also included as members of the board.<sup>1</sup>

Semiannual meetings of the board are held at the office of the county superintendent of schools on the 1st day of May and September. A majority of the board members constitutes a quorum. The county superintendent presides at the meetings and casts his vote in the same manner as the other members. The board elects a secretary from among its members.<sup>2</sup>

### FUNCTIONS AND RECORDS

The county board of education considers the general needs

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<sup>1</sup> Acts 1873, 1877; Burns 28-801; Baldwin 5983. Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962. *Opinions of the Attorney General of Indiana*, 1933, p. 551.

Section 28-801 aforesaid provides: "The county superintendent [of schools], the trustees of the townships, and the chairman of the school trustees of each town and city of the county shall constitute a county board of education."

Section 28-1201 aforesaid provides that the common council of each city and the board of trustees of each town shall "elect three school trustees" and that "such trustees shall constitute the school board of the city or town" and that "they shall . . . organize by electing one of their number president, one secretary and one treasurer."

The cited opinion of the attorney general holds that the language "chairman of the school trustees of each town and city of the county" refers to the president of the town or city school board.

<sup>2</sup> Acts 1873, 1877; Burns 28-801; Baldwin 5983.

If the 1st day of the month is Sunday, the semiannual meeting is held the next day. *Ibid.*

of the public schools within the county (including the care of school property and the purchase of school furniture, books, maps, charts, and other supplies), and makes advisory regulations concerning the same (except as to matters expressly covered by law or by a regulation of the Indiana State Board of Education); directs the care and management of township libraries; and adopts textbooks for the schools in the county, except in cities. The state board of education has broad power to adopt textbooks which must be used in all the public schools in the state, but the county board may adopt supplementary textbooks on the same subjects. There are many curricular subjects on which textbooks are not adopted by the state board. No textbook can be changed by the county board of education within 6 years after its adoption, except by the unanimous vote of all the members of the board.<sup>3</sup>

The county board of education may purchase textbooks from publishers at the net wholesale or contract price and sell them to the pupils at cost, plus the cost of handling the books, not to exceed 20 percent of the cost price, or rent them to the pupils at an annual rental not to exceed 25 percent of the retail price.<sup>4</sup>

Annually the board may appoint a school attendance officer for the county, known as the "county attendance officer." From 1897 to 1913 he was known as the "truant officer." The county superintendent of schools must annually nominate some person to be appointed county attendance officer, and must perform the duties of that office if the board makes no such appointment.<sup>5</sup>

Before April, 15 each year the board appoints one of its members to serve on the county board of tax adjustment.<sup>6</sup>

The secretary of the board keeps a complete record of its meetings and proceedings.<sup>7</sup>

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<sup>3</sup> *Ibid.* Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675. Interview of February 2, 1940 with Floyd J. McMurray, state superintendent of public instruction.

<sup>4</sup> Acts 1921; Burns 28-614; Baldwin 6692. Acts 1935; Burns, 1939 suppl., 28-638; Baldwin, 1935 suppl., 6692-1.

<sup>5</sup> Acts 1897, ch. 165, secs. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 4. Acts 1921, 1932 (Spec. Sess.); Burns 28-501; Baldwin 6693.

Traveling expenses of attendance officer. *Opinions of the Attorney General of Indiana, 1939*, p. 132.

<sup>6</sup> Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

<sup>7</sup> Interview of February 2, 1940 with Floyd J. McMurray, state superintendent of public instruction.

382. OFFICIAL RECORD, 1885-1927. 2 vols., 4 bdls. 1928-  
in [Miscellaneous Papers], entry 383.

Minutes of meetings of county board of education, showing date, time, and place of meeting; names of members present; nature of business transacted; and action taken. Arr. chron. by dates of meetings. No index. Hdw. Vols., 180 pp. 14 x 9 x 1; bdls., 13 x 15 x 2. Supt. off.

## XXI. COUNTY SUPERINTENDENT OF SCHOOLS

### LEGAL STATUS

The office of county superintendent of schools was established by an act of 1873 and was reestablished by an act of 1899.<sup>1</sup> The county superintendent of the schools is elected for a 4-year term by the township trustees and holds office until his successor is elected and qualified. The election is held in the auditor's office and the auditor acts as clerk of the election. In case of a tie vote the auditor casts the deciding vote.<sup>2</sup> To be eligible for this office a person must have had 5 years' successful experience as a teacher and must hold a first or second grade superintendent's license.<sup>3</sup> The superintendent must post bond in the amount of \$5,000 (to be approved by and filed with the auditor) and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>4</sup>

Statutes provide that the county superintendent of schools

<sup>1</sup> Acts 1873, ch. 25. Acts 1899, ch. 143.

<sup>2</sup> Acts 1873, ch. 25, secs. 2-4, 6-8. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State *ex rel.* Nebecker v. Sutton (1884), 99 Ind. 300; State *ex rel.* Laughlin v. Porter (1888), 113 Ind. 79, 14 N. E. 883; State *ex rel.* Williams v. Edwards (1888), 114 Ind. 581, 16 N. E. 627; State *ex rel.* Drummond v. Dillon (1890), 125 Ind. 65, 25 N. E. 136; State *ex rel.* Morris v. McFarland (1898), 149 Ind. 266, 49 N. E. 5.

A township trustee cannot participate in the election if he is a candidate for the office. Horning v. State *ex rel.* Gamble (1888), 116 Ind. 458, 19 N. E. 151. *Opinions of the Attorney General of Indiana, 1923*, p. 229.

<sup>3</sup> Acts 1927, ch. 142, sec. 1. Acts 1935; Burns, 1939 suppl., 28-701; Baldwin, 1935 suppl., 5933-1. Acts 1923; Burns 28-4209; Baldwin 5920.

Residence and citizenship. State *ex rel.* Jeffries v. Kilroy (1882), 86 Ind. 118. *Opinions of the Attorney General of Indiana, 1907*, p. 163; 1929, p. 242; 1933, pp. 89, 236.

<sup>4</sup> Const. 1851, art. 15, sec. 4. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068.

shall receive from the county a regular salary of \$1,720 per year, that his salary may be increased by the county council after request therefor by a majority of the township trustees,<sup>5</sup> and that he is to be reimbursed for his traveling expenses (not to exceed \$300 per year).<sup>6</sup> The board of commissioners must provide and furnish an office for the county superintendent and allow and pay all costs incurred by him for postage, stationery, and records required in the performance of his official duties.<sup>7</sup>

The county superintendent of schools is a member and beneficiary of the Indiana State Teachers' Retirement Fund.<sup>8</sup> He cannot conduct or assist in conducting any "private or county normal school in this state" or receive any "pay or emolument from the management of such school."<sup>9</sup> He may serve as a member of the state board of education if appointed to that board by the governor.<sup>10</sup> He is a member of the county board of education and presides at its meetings.<sup>11</sup>

For sufficient legal grounds the county superintendent of schools may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>12</sup> If the superin-

<sup>5</sup> Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1933, 1939; Burns, 1939 suppl., 49-1014; Baldwin, 1939 suppl., 7544. *Opinions of the Attorney General of Indiana, 1938*, p. 126.

The constitution provides that "the salary of any officer fixed by this constitution or by law" shall not "be increased during the term for which such officer was elected or appointed," and that the general assembly shall not pass local or special laws "in relation to fees or salaries: except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required." Const. 1851, art. 4, sec. 22; art. 15, sec. 2 (as amended in 1926).

An increase in the compensation of the county superintendent of schools cannot become effective during the term of the incumbent. *Opinions of the Attorney General of Indiana, 1939*, p. 132.

The county superintendent of schools cannot receive compensation while holding over after expiration of his term and after his successor is elected and qualified. *Edington v. Board of County Comrs. (1938)*, 105 Ind. App. 156, 13 N. E. (2d) 895.

<sup>6</sup> Acts 1911, ch. 94, sec. 3. Acts 1921, ch. 54, ch. 3. Acts 1935; Burns, 1939 suppl., 28-708; Baldwin, 1937 suppl., 5934.

<sup>7</sup> Acts 1899; Burns 28-707; Baldwin 5946.

<sup>8</sup> Acts 1915, 1921, 1937, 1939; Burns, 1939 suppl., 28-4511; Baldwin, 1939 suppl., 6739.

<sup>9</sup> Acts 1901; Burns 28-716 to 28-718; Baldwin 5954.

<sup>10</sup> Acts 1913; Burns 28-401; Baldwin 5906.

<sup>11</sup> See the essay entitled "County Board of Education."

<sup>12</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 28-703; Baldwin 5932.

tendent of schools is convicted of a felony the judgment of conviction must declare his office vacant.<sup>18</sup>

Any vacancy in the office of county superintendent of schools is filled in the manner provided for the election for a full term. The person elected to fill the vacancy must post bond and take oath as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.<sup>14</sup>

The county superintendent of schools, with the approval of the township trustees, may appoint an assistant. He is employed for such number of days as is necessary, and his compensation is fixed by the township trustees.<sup>15</sup>

An act of 1838 provided for the annual appointment by the judge of the circuit court, of three county school examiners, to examine common school teachers and certify as to their qualifications.<sup>16</sup> A superseding act of 1843 (repealed in 1852) provided that the school examiners be appointed for indefinite terms.<sup>17</sup> An act of 1852 authorized the state superintendent of public instruction, in person or by deputy, to issue teachers' licenses after an examination of the applicants.<sup>18</sup> An act of 1853 authorized the board of commissioners to appoint, annually, one to three school examiners for the county, each to serve for a 1-year term. These county school examiners examined applicants for licenses as common school teachers, issued such licenses, kept records of the licenses issued, and made an annual report to the state superintendent of public instruction.<sup>19</sup> Acts of 1861 and 1865, superseding the act of 1853, provided for the appointment of one county school examiner for a 3-year term.<sup>20</sup> An act of 1873 changed the officer's title to "county superintendent," transferred to the township trustees the power of appointment, made the county superintendent more responsible to the state

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Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. McComas v. Krug (1879), 81 Ind. 327; Hufford v. Conover (1894), 139 Ind. 151, 38 N. E. 328.

<sup>18</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>14</sup> Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931.

<sup>15</sup> Acts 1911, 1921; Burns 28-709; Baldwin 5937.

<sup>16</sup> Rev. Stat. 1838, ch. 94 (14), secs. 3, 5, 6, 14, 15.

<sup>17</sup> Rev. Stat. 1843, ch. 15, secs. 133-135 (repealed by 1 Rev. Stat. 1852, ch. 92, sec. 1).

<sup>18</sup> 1 Rev. Stat. 1852, ch. 98, sec. 85.

<sup>19</sup> Acts 1853, ch. 106, secs. 6-8.

<sup>20</sup> Acts 1861, ch. 41, secs. 22, 33. Acts 1865, ch. 1, secs. 33-43.

superintendent of public instruction, and gave the county superintendent advisory supervision of the schools of the county.<sup>21</sup> An act of 1927 changed the title of this officer to "county superintendent of schools."<sup>22</sup> An act of 1923 gave the state board of education exclusive jurisdiction to license school superintendents, supervisors, principals, teachers, attendance officers, and all other regular school employees.<sup>23</sup>

#### FUNCTIONS AND RECORDS

The county superintendent of schools is an officer of the public school system of Indiana,<sup>24</sup> and constitutes the medium between the state superintendent of public instruction and the "subordinate school officers and the schools."<sup>25</sup>

The county superintendent exercises general supervision of those schools in Morgan County which are not within incorporated cities and towns;<sup>26</sup> carries out the orders of the state board of education and the state superintendent of public instruction; visits the schools in session, at least once each year, for the purpose of increasing their usefulness and raising their scholastic standards as uniformly as practicable;<sup>27</sup> obtains the aid of the county agricultural agent in giving practical education in agriculture and domestic science;<sup>28</sup> cooperates with the state board of education in carrying out the provisions of the law requiring the teaching of the nature of alcoholic drinks and narcotics and their effects on the human system;<sup>29</sup> provides for the examination of applicants for graduation from the common and high schools of the townships, districts, and towns, and furnishes the certificates of graduation; and attends commencements of the common and high schools of the townships and towns.<sup>30</sup>

The county superintendent keeps a complete record of

<sup>21</sup> Acts 1873, ch. 25, secs. 2-4.

<sup>22</sup> Acts 1927, ch. 142, secs. 1, 2. Acts 1935, ch. 258, secs. 1, 2.

<sup>23</sup> Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928. Interview of November 14, 1939 with Floyd I. McMurray, state superintendent of public instruction.

<sup>24</sup> State *ex rel.* Osborn v. Eddington (1935), 208 Ind. 160, 195 N. E. 92.

<sup>25</sup> Acts 1899; Burns 28-704; Baldwin 5938.

<sup>26</sup> Acts 1899; Burns 28-704, 28-705; Baldwin 5938, 5940; Acts 1873; Burns 28-1401; Baldwin 5973.

<sup>27</sup> Acts 1921; Burns 28-305; Baldwin 5939. Acts 1899; Burns 28-704; Baldwin 5938.

<sup>28</sup> Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin 6457.

<sup>29</sup> Acts 1933; Burns 28-3410; Baldwin 6021.

<sup>30</sup> Acts 1899; Burns 28-706; Baldwin 5942.

licenses held by the school teachers, county attendance officer, and other regular school employees working in the county (other than those of town and city schools);<sup>31</sup> reports to the school corporations as to teachers' preparation, experience, and licenses before they are employed;<sup>32</sup> conducts teachers' meetings and institutes;<sup>33</sup> notifies teachers of their "duties and obligations" under the law concerning teachers' pensions; sees that these "duties and obligations" are stated in the teachers' contracts; and reports to the Board of Trustees of the Indiana State Teachers' Retirement Fund information needed by that board for the administration of the retirement fund.<sup>34</sup>

The county superintendent of schools annually nominates a county attendance officer to be appointed by the county board of education; serves as such attendance officer if one is not appointed, in which event the county superintendent may designate one or more teachers to serve as assistant attendance officers; supervises the work of the county attendance officer; authorizes or prosecutes legal proceedings for the enforcement of the school attendance laws;<sup>35</sup> issues work permits and absence permits for children;<sup>36</sup> and arranges for examination of children by physicians and other experts as a basis for the establishment of special classes for children who are physically handicapped or mentally retarded, and those regarded as "problem children."<sup>37</sup>

The county superintendent authorizes the removal and relocation of township school buildings;<sup>38</sup> acts with the county assessor and auditor in determining the value of school buildings and equipment to be purchased by a township from a school town;<sup>39</sup> appoints depository merchants and dealers for the

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<sup>31</sup> This record shows the kind and grade of licenses, the success grade, the date of first employment, and monthly or annual salary. Acts 1923; Burns 28-4217; Baldwin 5928.

<sup>32</sup> Acts 1927, 1933; Burns 28-4309; Baldwin 6005.

<sup>33</sup> Acts 1865, ch. 1, secs. 159-161. Acts 1899; Burns 28-704, 28-706; Baldwin 5938, 5942. Acts 1907, 1929, 1933; Burns 28-4401, 28-4402; Baldwin 6728, 6725.

<sup>34</sup> These reports must show the teachers' pension account numbers and such other information as is required by the pension board. Acts 1915, 1921, 1937, 1939; Burns, 1939 suppl., 28-4511 (g); Baldwin, 1939 suppl., 6739 (g).

<sup>35</sup> Acts 1921, 1932 (Spec. Sess.); Burns 28-501, 28-502; Baldwin 6693, 6694.

<sup>36</sup> Acts 1921, 1929; Burns 28-505, 28-519; Baldwin 6698, 6712.

Mental unfitness. *In re Morton* (1922), 79 Ind. App. 5, 137, N. E. 62.

<sup>37</sup> Acts 1927; Burns 28-3502; Baldwin 6077.

<sup>38</sup> Acts 1893; Burns 28-2701; Baldwin 6104.

<sup>39</sup> Acts 1919; Burns 28-1209; Baldwin 6247.

sale of schoolbooks;<sup>40</sup> and joins with each township trustee in making regulations concerning the free use of schoolbooks in the several school libraries.<sup>41</sup>

The county superintendent examines and verifies certificates, presented by township trustees, for aid from the state common school relief fund;<sup>42</sup> receives from the township trustees and the school trustees of cities and towns copies of their reports to the board of commissioners concerning "special school revenue" and the "school revenue for tuition";<sup>43</sup> reports to the county auditor the basis for the apportionment of school revenues;<sup>44</sup> receives semiannual reports from the county auditor showing the precise amount of "school revenue for tuition" in the county ready for apportionment and distribution;<sup>45</sup> sees that the interest on the common school fund is apportioned, and that proper warrants are issued in case of "loss of any school fund or revenue" or "a deficit of interest of any school fund";<sup>46</sup> and inspects the official dockets, records, and books of accounts of the clerks of courts, county auditor, board of commissioners, justices of the peace, prosecuting attorney, mayors of cities, and township and school trustees to ascertain if any of said officers have neglected to collect and pay to the school funds any revenues belonging to such funds, and he institutes judicial proceedings when such neglect is found.<sup>47</sup>

The county superintendent will appoint three members of the county library board when such board is established in the county. He appoints two members of any city library

<sup>40</sup> Acts 1907, 1913; Burns 28-610; Baldwin 6681.

The county superintendent cannot "deal in school books in his official capacity." Acts 1907; Burns 28-611; Baldwin 6682.

<sup>41</sup> Acts 1935; Burns, 1939 suppl., 28-628; Baldwin, 1935 suppl., 6677-5.

<sup>42</sup> Acts 1921, ch. 201, secs. 4, 5. Acts 1931, ch. 163, secs. 4, 5, 13. Acts 1933, ch. 167, sec. 12. Acts 1933; Burns 28-903, 28-904; Baldwin 6433, 6434.

<sup>43</sup> These reports are made annually unless the board of commissioners requires that they be made more often. Acts 1865, 1873, 1883; Burns 28-2412; Baldwin 6498.

<sup>44</sup> Acts 1865; Burns 28-715; Baldwin 5949.

<sup>45</sup> Acts 1865, 1873, 1897; Burns 28-1009; Baldwin 6486.

<sup>46</sup> Acts 1873, 1875; Burns 28-711; Baldwin 5951. Acts 1865; Burns 28-715; Baldwin 5949.

<sup>47</sup> Acts 1873; Burns 28-712; Baldwin 5950. *Moore v. State ex rel. Denny*, 55 Ind. 360; *Nichols v. State ex rel. Clerk* (1879), 65 Ind. 512; *Carr v. State ex rel. Attorney General* (1882), 81 Ind. 342.

The county superintendent cannot enjoin school trustees from unlawfully paying out school funds. *McGreggor v. State ex rel. Ballard* (1903), 31 Ind. App. 483, 68 N. E. 315.

board which receives aid from the county.<sup>48</sup> From 1919 until 1935 he annually awarded two scholarships to Indiana University.<sup>49</sup>

The county superintendent bears and decides appeals from township trustees concerning "the legality of school meetings," the establishment of schools, the location, building, repair, or removal of schoolhouses, the "transfer of persons for school purposes," the transfer of pupils from one school corporation to another, the transportation of such transferred pupils to and from school, the resignation and dismissal of teachers, and other school matters.<sup>50</sup> He casts the deciding vote in case of a tie vote concerning the management and control of any high school operated jointly by two or more school corporations in the county.<sup>51</sup> In many cases his acts and decisions are reviewable on appeal to the state superintendent of public instruction.<sup>52</sup>

The county superintendent receives annual statistical reports from township trustees and the school trustees of cities and towns;<sup>53</sup> cooperates in the examination of schools by inspectors of the state board of education; makes reports as required by such inspectors;<sup>54</sup> and makes annual reports to the state superintendent of public instruction concerning the enumeration and average daily attendance of school children, the condition of the schools and schoolhouses, the progress of education, and such additional statistics and information as is required by the state superintendent.<sup>55</sup>

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<sup>48</sup> Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510, 41-514; Baldwin, 1939 suppl., 10321 10325.

<sup>49</sup> Acts 1919, ch. 185, sec. 1. Acts 935, ch. 45, sec. 1.

<sup>50</sup> Acts 1899; Burns 28-704; Baldwin 5938. Acts 1865; Burns 28-2405; Baldwin 5952. Acts 1901; Burns 28-3705; Baldwin 6286. Acts 1935; Burns, 1939 suppl., 28-3718; Baldwin, 1935 suppl., 6292-2. Acts 1917; Burns 28-3801; Baldwin 6271. State *ex rel.* Stewart v. Miller (1923), 193 Ind. 492, 141 N. E. 60; Brumfield v. State *ex rel.* Wallace (1934), 206 Ind. 647, 190 N. E. 863. *Opinions of the Attorney General of Indiana, 1938*, p. 302.

<sup>51</sup> Acts 1911, 1915; Burns 28-2652; Baldwin 6171.

<sup>52</sup> Acts 1899; Burns 28-704; Baldwin 5938. Acts 1865; Burns 28-2405, 28-2407; Baldwin 5952, 5953.

<sup>53</sup> Acts 1865, 1873, 1883; Burns 28-2414; Baldwin 5974.

<sup>54</sup> Acts 1921; Burns 28-305; Baldwin 5939.

<sup>55</sup> Acts 1865, 1873, 1895; Burns 28-713 to 28-715; Baldwin 5947 to 5949. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

## REPORTS

333. [MISCELLANEOUS PAPERS], 1879-. 1 f. d.

Contains:

- i. Applications for teaching positions, 1927-, showing date of application, name and address of applicant, position sought, names of township and trustee, and statement of applicant's qualifications. Arr. by names of twps., thereunder chron. by dates of applications.
- ii. Record of teachers' institutes, 1934-, showing date and place of institute, names of teachers attending, and program schedule. Arr. chron. by dates of institutes.
- iii. Annual reports of county superintendent of schools to state board of education of teacher data for approval for state aid, 1934-, showing date of report and school term covered; names of teacher and school; training qualifications and teaching experience; position held as supervisor, superintendent, or principal; amount of 8 months salary by schedule; annual salary by contract; and aid allowed 1st and 2d periods. Arr. chron. by dates of reports.
- iv. Annual report by employing officials to the board of trustees of the Indiana State Teachers' Retirement Fund, of teachers in their employ, 1934-, showing dates of report, filing, and period covered; names of official, township, 1st year teachers not members of teachers' retirement fund, and membership teachers; date of beginning service; number of members; amount of annual assessment; and deductions for January and July. Arr. chron. by dates of reports.
- v. Annual report of county superintendent of schools to state superintendent of public instruction for use in qualifying teachers under provisions of tuition support law, 1934-, showing date of report and period covered; names of teacher, school, trustee, and school official; teacher's institutional training, teaching experience, success grade, and license number; amount of salary; term of contract; member or nonmember of teachers' retirement fund; number of teachers qualified and not qualified under tuition support law;

number of instructors per school unit and number of members of staff not teaching, engaged in conduct of regular classes for first semester of report; and teaching units of previous July distribution of support. Arr. chron. by dates of reports.

- vi. County superintendent's annual report to state superintendent of public instruction of aggregate attendance of pupils, 1934-, showing date of report and period covered; name and address of township trustee or treasurer of school corporation, county superintendent, and school; number of days that school was in operation during period; number of pupils enrolled; average daily attendance; number of pupils having legal residence within township or corporation; number of pupils legally transferred; number of teaching units; number of emergencies determined and declared by state department of education; total number of units; number of licensed instructors as reported to inspection division and certified by licensing division; total amount of retirement fund per unit; amount apportioned; amount of deductions for state teachers' retirement fund; and amount of warrant issued. Arr. by dates of reports.
- vii. Copy of county superintendent of schools annual financial report to state superintendent of public instruction, showing date of report and period covered; date, amount, and source of receipts; date, nature, and amount of expenditures; amounts of balance at beginning and closing of period; names of township or school corporation and funds; amounts of outstanding bonds and orders; and interest rate. Arr. chron. by dates of reports.

Also contains: Official Record, 1928-, entry 332. No index. Typed. 13 x 15 x 26. Supt. off.

834. MISC[ellaneous County] STATE AND TOWNSHIP, 1912-.  
1 f. d.

Records or copies of miscellaneous reports concerning school activities and affairs, including:

- i. Annual reports of state department of public instruction to county superintendent of schools of amount of distribution of tuition revenue, 1930-,

showing date of report and period covered, names of township and trustee, number of grades taught in each school, and per capita and total distribution. Arr. chron. by dates of reports.

- ii. Record of temporary permits issued by state department of education, superintendent of teacher's training and licensing, to high school teachers, 1930-, showing date and nature of permit, names of teacher and employing township, and teacher's license number. Arr. chron. by dates of permits.
- iii. School rating reports of department of public instruction, division of inspection, to county superintendent of schools of inspections and ratings of the schools, 1930-, showing date of inspection; names of inspector, school, and township; record of teaching staff, supervision, and administration; itemized lists of buildings, grounds, furnishings, equipment, programs, and studies; school rating; and recommendations of inspector. Arr. chron. by dates of reports.
- iv. Duplicate copies of recommendations by state fire marshall to the township trustees after inspection of school buildings, 1934-, showing dates of inspection and recommendations, name of inspector and school inspected, list of unsatisfactory conditions, and remedial recommendations of inspector. Arr. chron. by dates of recommendations.
- v. Record of student's aid approved by the National Youth Administration, 1934-, showing date of application; receipt by N. Y. A.; certification and recommendation of school superintendent and principal; certification of student and parent of student's need for aid; name, age, date of birth, color, and race of student; name and location of school; school grade status; names and addresses of references, school superintendent, and principal; name, address, and occupation of parent or guardian; name and address of parent's employer; number of persons in student's family, employed and in school; amount of family income last year; date, amount, and source of relief received by family during last 4 years; amount of monthly aid recommended by school superintendent and

- principal; and amount allowed by N. Y. A. Arr. chron. by dates of allowances.
- vi. Superintendent of Student Aid of National Youth Administration's reports to county superintendent of schools of allocation of funds for students' aid, 1934-, showing date of report and period covered in allocation, beginning and ending payroll dates, name of school, amount of monthly quota, and total funds allocated. Arr. chron. by dates of reports.
- vii. Office budget estimates submitted to county auditor by county superintendent of schools, 1930-, showing dates of estimates and period covered; amounts of estimates for personal service, operating expense, current charges, property, and equipment; and total. Arr. chron. by dates of estimates.
- viii. Letters of recommendation furnished by teachers making applications for positions, 1930-, showing date of letter, names of teacher and writer, and abilities and qualifications of applicant according to letter. Arr. chron. by dates of letters.
- ix. County superintendent of schools record of approval or disapproval of teachers employed or proposed to be employed, 1937-, showing date of approval or disapproval; names of employing official, teacher, and school; training, experience, and success grade of teacher; subject and grade attainment; number, kind, and grade of license; and action of county superintendent of schools. Arr. chron. by dates of approval or disapproval.
- x. County auditor's reports to county superintendent of schools on distribution of school revenue, 1930-, showing dates of report and period covered, name of township or school corporation, enumeration of pupils in each school unit, amount of common school and Congressional Township school revenue, local taxes and intangible tax for school purposes, and total for each township or school corporation, total for county, and average daily attendance of pupils in each school unit. Arr. chron. by dates of reports.

- xii. County superintendent of schools duplicate orders for schoolbooks, 1930-, showing date of order, names and quantity of books ordered, and name and address of schoolbook publisher or vendor. Arr. chron. by dates of orders.
- xiii. Invoices for books purchased by county superintendent of schools, 1930-, showing date of invoice and shipment, name and address of vendor, itemized list of books shipped, method of transportation, and amount of invoice. Arr. chron. by dates of invoices.
- xiv. Freight bills for shipments of schoolbooks to county superintendent of schools, 1930-, showing date of shipment, names and addresses of consignor and consignee, method of transportation, description and weight of shipment, freight rate, and amount of charges. Arr. chron. by dates of shipments.
- xv. Statements of schoolbooks charged to trustees to be sold to pupils, 1930-, showing dates of statement, charge, and payment; names of trustee and township; list of books charged; and amounts of charges and payments. Arr. chron. by dates of statements.
- xvi. Reports of county superintendent of schools to state department of education of number of teachers approved under \$800 law, 1934-, showing date of report and school period covered, names of teachers approved, name of township or school corporation, number of school units and teachers of each unit, and total number of teachers approved. Arr. chron. by dates of reports.
- xvii. Annual reports of county superintendent of schools to state department of public instruction of the average daily attendance of pupils of the township and corporation schools for basis of apportionment of distribution of school revenue, 1932-, showing date of report and period covered; name of township or school corporation; number of days of school operation and pupils enrolled; aggregate attendance; number of legal resident pupils township or school corporation attending public, private, and parochial schools within and outside of township or corporation; number of nonlegal

- resident pupils attending same school within township or corporation; and total number of pupils attending school in each township or school corporation. Arr. chron. by dates of reports.
- xvii. Copies of annual reports by the board of county commissioners to state superintendent of public instruction of the condition of school funds, 1934-, showing date of report and period covered, balance from former report, amount and nature of receipts, amount of loans, and balance. Arr. chron. by dates of reports.
- xviii. Official transcripts from colleges attended of the college record of teachers employed in county, 1928-, showing dates of transcript, matriculation, attendance, graduation, and high school graduation of teacher; name and address of college, teacher, and teacher's parent or guardian; name of college registrar; teacher's religious affiliation; prescribed and elective units and status of major subjects; method of admittance to college; list of credits; course numbers and titles; number of semester hours; grades; and number of semesters attended. Arr. chron. by names of teachers.
- xix. Reports by examiners or teachers to county superintendent of schools on illiteracy, retarded, and problem children, showing date of examination; name of examiner; and name, address, age, sex, color, date and place of birth, mental and physical history, school record, and reactions of child. Arr. alph. by names of children.
- xx. Booklet approval reports of state aid to the township schools of the county, 1935-, showing dates of report and opening and closing of school year period; names of township, trustee, county superintendent of schools, state school relief secretary of state board of education; previous year's school levy; and assessed valuation of each township; number of pupils enrolled; grades taught, elementary rooms, and teachers approved and employed; average daily attendance last year; number of transfers; names and salaries of employees other than teachers; number of pupils transported; nature of roads; miles traveled; amount, nature, and cost of supplies, equipment, repairs, and

miscellaneous expenses for past year; estimated cost for current year; and totals. Arr. chron. by dates of school years.

- xxi. Annual reports to county board of education of claims and distribution of state school relief funds, 1935-, showing date of report and period covered, name of school corporation and fund, county auditor's certificate of distribution, itemized list of receipts and disbursements, totals, balance, levies itemized by funds, total valuation, and amount of funds raised. Arr. chron. by dates reports.

No index. Typed. 13 x 15 x 26. Supt. off.

335. STATE REPORTS, [Teachers and Trustees], 1918-. 1 f. d. Annual reports of teachers, school trustees, and county superintendent of schools, including:

- i. Teacher's report to county superintendent of schools of aggregate attendance of pupils, 1934-, showing date of report and period covered; name of teacher, school, and township or school corporation; name, date of birth, and grade of pupil; number of days present; number of days of school operation; total days of attendance; and total enrollment.
- ii. Township trustees' report to county superintendent of schools of the aggregate daily attendance of pupils in grades 1 to 12 of the public and parochial schools, 1934-, showing date of report and period covered; names of trustee, township, and schools; number of teachers, pupils, and schools; number of days each school was operated; total number of days all schools were in operation; and aggregate and average daily attendance.
- iii. Township trustees statistical report to county superintendent of schools, showing date of report and period covered; names of trustee and township; number, sex, and color of pupils in grades 1 to 12; number of pupils transferred and transported; number of contracts and days pupils were transported; total mileage of longest and shortest route; classification and salaries of all school employees; number of schools abandoned and new schools built; last assessed valuation of

- schools; and itemized list of tax levies by funds.
- iv. School trustees' financial statement and report to state superintendent of public instruction of receipts and expenditures, showing date of report and period covered, names of trustee and town or city, itemized amounts and nature of receipts and expenditures, per capita cost for each pupil, and statement of assets, liabilities, and net valuation of school property.
- v. County superintendent of schools report to state superintendent of public instruction of schools opened, 1934-, showing date of report and school opening, length of school term, date school will close, name of school township or corporation, name and address of principal, enrollment by grades and total, itemized list of furnishings and equipment, record of promotions and graduations, and programs, studies, and schedule of classes for each grade.
- vi. County superintendent of schools report to state superintendent of public instruction, inspection division, on one-teacher elementary schools, 1930-, showing date of report and period covered; names of teacher, school, and trustee; teacher's license number, training, experience, and salary per month; number and sex of pupils in each grade and total; description of building and grounds; itemized list of furnishings and equipment; record of promotions and graduations; and programs, studies, and schedule of classes for each grade.
- vii. County superintendent of schools report to state superintendent of public instruction, inspection division, of teachers and school employees, 1935-, showing date of report; name of township or school corporation; location of school; names and numbers of teachers; list of subjects taught; names and duties of other employees; date, number, and nature of permit or license; teacher's training, experience, success grade, and salary; and duration of teacher's contract.

Arr. chron. by dates of reports. No index. Hdw. 13 x 15 x 26. Supt. off.

336. COUNTY ENROLLMENTS, 1934-. 1 f. d.

Children's intelligence test scores and teachers' reports to county superintendent of schools, including:

- i. Teachers' reports on initial enrollment, showing dates of report and enrollment; names of pupils, teacher, school, and township or corporation; name and address of parent or guardian; date of birth and school grade of pupils; number of grades; number of males and females enrolled in each; and total enrollment. Arr. chron. by dates of reports.
- ii. Intelligence test scores of children in grades one to eight, 1937-, showing date of test; names of pupil, teacher, school, and interrogator; age, school grade, score, class record, and total score of child; and recommendations. Arr. chron. by dates of tests.
- iii. Teachers' reports on term end enrollments, showing dates of report, term ending, and enrollment; names of pupil, teacher, principal, township, or corporation; number of days of attendance and absence of each pupil; number of times tardy; grades on subjects studied; deportment; school grade for next school year; number of males and females and total; and average daily attendance. Arr. chron. by dates of reports.
- iv. Teachers' final report on attendance, showing date of report and period covered; names of teacher, school, township, or corporation; number of grades reported; pupils originally enrolled; transfers, withdrawals, and enrollment at end of school year; total days of enrollment, attendance, and absence; total number of those tardy; average daily attendance; percent of attendance; number of pupils transported; number, sex, and color of pupils by grades; and total enrollment. Arr. chron. by dates of reports.

No index. Hdw. 13 x 15 x 26. Supt. off.

337. SEMI-ANNUAL REPORTS, 1936-. 1 bdl.

County attendance officer's semiannual reports to state board of attendance, showing dates of report and period covered; name and address of attendance officer; name of township or school corporation; number of court cases, visits, office interviews, cases referred to other agencies, and total number of cases; and nature and adjustment of case problems. Arr. chron. by dates of reports. No index. Hdw. 11 x 8 x  $\frac{1}{2}$ . Supt. off.

## TEACHERS

338. STANDARD INDIANA TEACHERS RECORD, 1923-. 4 f. b. Employment records of teachers, showing dates of record, license, and expiration; name and address of teacher; names of township or corporation and schools where employed; retirement fund membership; institutional training and teaching data; salary received; and degree if any. Arr. alph. by twps., thereunder alph. by names of teachers. No index. Hdw. 4 x 6 x 8. Supt. off.

339. TEACHER'S EXAMINATIONS, 1865-1922. 9 vols. Discontinued.

Record of examinations for teachers' licenses, showing dates of examination and issuance of license; name, age, and address of teacher; manuscript number; subjects and grades of examination; general average scholarship; success and general average grades; term of license granted; and refusals. Also contains: Record of Manuscript of Teacher's License, 1910-22, entry 341. Arr. chron. by dates of examinations. No index. Hdw. 200 pp. 18 x 12 x 1. Supt. off.

340. INDIANA SUCCESS SCHEDULE, 1926-37. 18 vols. Discontinued.

Record of teachers' success schedules, showing date of schedule; name and address of teacher; names of township, school, and school superintendent; number of months of school term and grades taught; success grade; and itemized schedule of professional capability and application. Arr. alph. by names of teachers. No index. Hdw. 60 pp. 11 x 8 x ½. Supt. off.

341. RECORD OF MANUSCRIPT OF TEACHER'S LICENSE, 1902-9. 1 vol. Discontinued. 1910-22 in Teacher's Examination, entry 339.

Record of teachers' licenses issued after successful examinations, showing date of license, name and address of teacher, manuscript number, amount of fee, success grade, name of certifying county superintendent, average scholarship grade, and nature of license issued. Arr. num. by manuscript nos. No index. Hdw. 200 pp. 14 x 9 x 1. Supt. off.

## PUPILS

342. RECORD OF TRANSFERS, 1886-. 1 vol., 1 f. d.

Record of pupils transferred from one township or corporation school to another, showing dates of transfer and school year, name and address of pupil, and names of township or school

corporation and township trustee. Arr. chron. by dates of transfers, thereunder alph. by names of pupils. No index. Hdw. and typed. Vol., 200 pp. 14 x 9 x  $\frac{1}{2}$ ; f. d., 13 x 15 x 26. Supt. off.

343. SCHOOL CENSUS, 1908-. 21 vols., 1 f. d.

Census of school children between 6 and 21 years of age, showing date of census; name, age, sex, color, and date of birth of child; names and addresses of parents or guardian; names of enumerator, township, township trustee, and school or district; employment record and years of school attendance of children over 16 years of age; total number of children enumerated by school districts; and attendance record. Arr. alph. by names of children. No index. 1908-24, bdw.; 1925-, typed. Vols., 350 pp. 15 x 10 x 2; f. d., 13 x 15 x 26. Supt. off.

344. INDIANA ELEMENTARY AND HIGH SCHOOL RECORD, Sept. 1939-. 1 f. d.

Card record of enrollment of elementary pupils, showing dates of enrollment and leaving school or graduation; name, address, and date and place of birth of pupil; names of parents or guardian and school attended; occupation, economic status, and home conditions of parents; number of children in family; subjects studied and grades attained; attendance, employment, and health record; and extra curricular activities. Also contains: Indiana High School Record, entry 345. Arr. alph. by names of schools, thereunder alph. by names of pupils. No index. Hdw. 13 x 15 x 26. Supt. off.

345. INDIANA HIGH SCHOOL RECORD, 1936-Mar. 1939. 1 f. d. Sept. 1939- in Indiana Elementary and High School Record, entry 344.

Card record of enrollment of high school pupils, showing dates of enrollment and graduation; name, address, and date and place of birth of pupil; names of parents or guardian and school attended; subjects studied; grades attained; attendance, employment, and health record; and extra curricular activities. Arr. alph. by names of schools, thereunder alph. by names of graduates. No index. Hdw. 13 x 15 x 26. Supt. off.

346. RECORD OF COMMON SCHOOL GRADUATES, 1903-33. 3 vols. Sept. 1939- in Indiana Elementary and High School Record, entry 344.

Record of graduation from common schools, showing date of graduation; name, age, sex, and address of graduate; names of teacher, township trustee, and school superintendent; and

subjects, grades, and general average grade of examination. Arr alph. by names of graduates. No index. Hdw. 180 pp. 14 x 9 x 1. Supt. off.

347. GRADE REGISTER, 1920-25. 2 vols.

Teachers' grade register, showing name, age, sex, color, grade, and daily attendance of pupil; names of teacher and township; semiannual examination grades; total enrollment; average daily attendance; number of graduates; and record of visitors. Arr. alph. by names of schools. No index. Hdw. 50 pp. 18 x 11 x ½. S. stor. rm., attic.

MISCELLANEOUS

348. INDIANA STATE TEACHERS' RETIREMENT FUND, 1934-.  
1 f. d.

Copies of teachers' applications for membership in Indiana State Teachers' Retirement Fund, showing date of application; name, age, sex, and date of birth of teacher; place of present employment; and prior teaching record. Arr. alph. by names of teachers. No index. Typed and hdw. 13 x 15 x 26. Supt. off.

349. SCHOOL BOOK RECORD, 1904-10. 2 vols. Discontinued. Record of schoolbook transactions by county superintendent, showing dates of receipt of books, sales, returns, and report to book company; name and address of company; name of township or school corporation; previous report of books on hand; number and nature of books received, sold, returned, and on hand; and total amount of sales. Arr. alph. by names of book companies. No index. Hdw. 250 pp. 18 x 10 x 2. Supt. off.

XXII. COUNTY HEALTH OFFICER

LEGAL STATUS

The office of county health officer exists under the mandatory provisions of an act of 1935 which became effective on January 1, 1938. The county health officer is appointed for a 4-year term by the board of commissioners, with the approval of the Indiana State Board of Health. At the time of making an appointment the board of commissioners determines whether he shall be a "full-time" officer or a "part-time" officer. He is now a part-time officer. He must be a regularly licensed physician, suitably trained in sanitary

science and hygiene,<sup>1</sup> and must take an oath to support the state and federal constitutions and faithfully discharge the duties of his office.<sup>2</sup>

The county health officer receives an annual salary in an amount equal to 3 cents for each county resident, exclusive of the residents of any city having a health officer, provided that his salary must be between \$200 and \$1,800 per year. This rate of compensation applies to part-time officers and full-time officers. A part-time county health officer may also serve as part-time city health officer, but his compensation from the two offices cannot exceed \$1,800 per year.<sup>3</sup> With the approval of the board of commissioners and the state board of health he is permitted to receive gifts and other financial assistance from private individuals, private corporations, the state, and the United States.<sup>4</sup>

The health officer may be removed from office by the board of commissioners or state board of health. Any vacancy in the office is filled through appointment by the board of commissioners, with the approval of the state board of health.<sup>5</sup>

Since the early days of the county the board of commissioners has had statutory authority to appoint inspectors of flour, beef, pork, salt, and hay. Tobacco inspectors could be appointed by the board before 1857 and by the judge of the circuit court since 1857.<sup>6</sup>

From 1881 to 1909 the board of commissioners constituted, *ex officio*, the county board of health, and annually appointed a secretary who was a physician and served as county health officer. The law provided that the secretary must render medical and surgical services to inmates of the county jail and any other medical services required of him

<sup>1</sup> Acts 1935 (effective January 1, 1933); Burns, 1939 suppl., 35-118, 35-122, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-7. Interview of March 1, 1940 with Dr. Verne K. Harvey, director of the state board of health.

<sup>2</sup> Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>3</sup> Acts 1935; Burns, 1939 suppl., 35-118, 35-122, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-7. *Opinions of the Attorney General of Indiana, 1938*, p. 17.

<sup>4</sup> Acts 1935; Burns, 1939 suppl., 35-127; Baldwin, 1935 suppl., 8404-10.

<sup>5</sup> Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

<sup>6</sup> Acts 1816-17, ch. 11, sec. 4. Acts 1818-19, ch. 15, sec. 1. Rev. Laws 1824, ch. 109, sec. 4. Rev. Laws 1831, ch. 50, secs. 1-6. Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 27. 1 Rev. Stat. 1852, ch. 55, sec. 1. 1 Rev. Stat. 1852; Burns 35-1901; Baldwin 9468. Acts 1857; Burns 67-308; Baldwin 9461.

by the board of commissioners.<sup>7</sup> An act of 1891 enlarged the duties of the board.<sup>8</sup> In 1909 the county board of health was abolished and the office of county health commissioner (appointed for a 4-year term by the board of commissioners) was established. This office continued until January 1, 1938, when the act of 1935 (the present law) became effective.<sup>9</sup>

#### FUNCTIONS AND RECORDS

The county health officer protects and supervises the general health and sanitation of the county, except in incorporated cities having a full-time or part-time health officer;<sup>10</sup> enforces the health laws of the state and the rules and regulations of the state board of health;<sup>11</sup> attends meetings of the state board when requested by that board;<sup>12</sup> oversees inspection of food and drugs; endeavours to promote sanitary conditions for the sale of food;<sup>13</sup> condemns buildings unfit for human habitation;<sup>14</sup> sends samples of water to the state laboratory for inspection, in order to detect pollution;<sup>15</sup> receives reports of diseases; makes inspections of public buildings and institutions; investigates the presence, source, and cause of disease; causes public service vehicles, public buildings, and dwelling places to be disinfected after certain diseases have occurred there; causes the removal of diseased persons from hotels, rooming houses, apartments, and similar places when necessary to prevent the spread of certain diseases; establishes quarantines; closes schools and churches and forbids public gatherings, in order to prevent the spread of epidemics; and protects the public health in all reasonable and necessary ways.<sup>16</sup>

<sup>7</sup> Acts 1881, ch. 19, sec. 8.

<sup>8</sup> Acts 1891, ch. 15, sec. 8.

<sup>9</sup> *Ibid.*, secs. 8, 10. Acts 1909, ch. 144, secs. 4, 6. Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

<sup>10</sup> Acts 1935; Burns, 1939 suppl., 35-122, 35-124; Baldwin, 1935 suppl., 8404-5, 8404-7.

<sup>11</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405.

<sup>12</sup> Acts 1903; Burns 35-406; Baldwin 8535.

<sup>13</sup> Acts 1909; Burns 35-1009; Baldwin 8512, Acts 1907; Burns 35-1207; Baldwin 8476.

<sup>14</sup> Acts 1917; Burns 35-1801; Baldwin 8563.

<sup>15</sup> Acts 1909; Burns 35-201; Baldwin 8410. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

<sup>16</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1903, 1915; Burns 35-402 to 35-405, 35-407 to 35-410; Baldwin 8532 to 8535, 8537 to 8540. Acts 1917; Burns 35-601 to 35-605; Baldwin 8402, 8552 to 8556. Acts 1935; Burns, 1939 suppl., 35-2207; Baldwin, 1935 suppl., 8431-7.

From 1911 until 1935 his predecessors in office referred cases of indigent persons bitten by a dog, known or supposed to have hydrophobia, to the state board of health for the Pasteur treatment; ordered hydrophobia-infected animals quarantined or killed; and, in case there was danger of the outbreak or spread of hydrophobia, ordered the muzzling or quarantining of dogs and other animals, with the consent and aid of the sheriff.<sup>17</sup>

Weekly reports, on printed forms provided by the United States Public Health Service, summarizing all communicable diseases or stating the absence thereof, are made by the county health officer to the state board of health.<sup>18</sup>

The county health officer collects, records, and reports the vital statistics of the county; issues burial permits;<sup>19</sup> and keeps full and permanent records of the public health work and of his reports. He makes monthly reports of his work to the state board of health.<sup>20</sup> He prepares and delivers to the clerk of the circuit court, on his request therefor, a list of the names and last known addresses of deceased voters.<sup>21</sup>

#### VITAL STATISTICS

##### 350. RECORD OF BIRTHS, 1902-3, 1907-. 7 vols.

Record of births reported to county health officer, showing date and place of birth; name, sex, and color of child; names, addresses, and occupations of parents; number of children born in family; and name and address of attending physician. Arr. chron. by dates of births. Indexed alph. by names of children. Hdw. 270 pp. 16 x 11 x 1½. Hlth. offr. off., Mooresville.

##### 351. RECORD OF CONTAGIOUS DISEASES, 1902-. 3 vols. Title varies: Record of Dangerous Diseases, 1902-7, 1 vol.; Record of Infectious and Contagious Diseases, 1908-18, 1 vol.

Record of contagious and infectious diseases reported to health officer, showing name, address, age, sex, and color of person;

<sup>17</sup> Acts 1911, ch. 98, secs. 3-5 (repealed by Acts 1935, ch. 271, sec. 1). Acts 1935; Burns, 1939 suppl., 35-711; Baldwin, 1935 suppl., 3863-1.

<sup>18</sup> Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. Rule 6 of state board of health.

<sup>19</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

8398. Acts 1939; Burns, 1939 suppl., 63-722; Baldwin, 1939 suppl., 7458-6.

Public or private funeral determined. Acts 1903, 1915; Burns 35-409; Baldwin 8539.

<sup>20</sup> Acts 1891, 1909; Burns 35-111; Baldwin 8405.

<sup>21</sup> Acts 1933; Burns 29-321; Baldwin 7319.

date of report; name of reporter; dates of establishment and release of quarantine; case number; number in family; marital status of patient; and name and address of attending physician. Arr. num. by case nos. No index. Hdw. 210 pp. 18 x 11 x 1. 2 vols., 1902-18, C. C., S. stor. rm., attic; 1 vol., 1919-, hlth. offr. off., Mooresville.

352. RECORD OF MARRIAGES, 1936-. 1 vol.

Record of marriage returns reported by clerk to health officer, showing dates of marriage and return; names, addresses, ages, color, description, and previous marital record of bride and groom; place of marriage; and names of parents and person officiating. Arr. chron. by dates of returns. Indexed alph. by names of brides and grooms. Hdw. 272 pp. 16 x 11 x 2. Hlth. offr. off., Mooresville.

For other marriage records, see entries 33-37.

353. RECORD OF DEATHS, 1899-. 6 vols.

Record of deaths reported to health officer, showing date, place, and cause of death; name, age, sex, color, and occupation of deceased; names and birthplaces of parents; and names of attending physician, mortician, and burial place. Arr. chron. by dates of filing. Indexed alph. by names of deceased. Hdw. 160 pp. 18 x 12 x 1. Hlth. offr. off., Mooresville.

### XXIII. PUBLIC HEALTH NURSE

#### LEGAL STATUS

Under the permissive provisions of an act of 1935, Morgan County has a full-time public health nurse who is appointed for an indefinite term by the board of commissioners (subject to the approval of the Indiana State Board of Health). She may be removed from office at any time by the board of commissioners without charges being made against her.<sup>1</sup> The nurse must be "legally qualified"; must have been suitably trained in sanitary science;<sup>2</sup> must have knowledge of mental hygiene and nutrition;<sup>3</sup> must be of vigorous health; must dem-

<sup>1</sup> Acts 1935; Burns, 1939 suppl., 35-118, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6. Letter of March 6, 1940 from James P. Wason, Deputy Attorney General of Indiana, to Dr. Christopher B. Coleman, Director of the Indiana Historical Bureau, concerning the term of office and removal of public health nurses.

<sup>2</sup> Acts 1935; Burns, 1939 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

<sup>3</sup> Interview of May 17, 1940 with Dr. Verne K. Harvey, director of state board of health.

onstrate that she has high ideals, that she acts in accordance with ethical standards, and that she can be depended on to exercise good judgment; must be industrious and efficient; and must have "ability to get on well with other people."<sup>4</sup> Her compensation is fixed by the board of commissioners and included in an appropriation by the county council. There are no statutory limitations to the amount of her compensation.<sup>5</sup>

#### FUNCTIONS AND RECORDS

The public health nurse devotes her entire time to the duties of her office in protecting and supervising the general health and sanitation in Morgan County; performs such duties as are prescribed by regulations of the state board of health;<sup>6</sup> helps to secure medical diagnosis and treatment for sick, diseased, and ailing persons; renders or arranges for necessary nursing care; teaches through demonstration the care to be given by relatives and attendants of sick, diseased, and crippled persons and invalids, and supervises such care; assists families and individuals to plan and carry out medical, sanitary, and social procedures for the prevention of disease and the promotion of health; helps to secure adjustment of social conditions which affect health; influences the community to develop public health facilities through participating in appropriate channels of community education for the promotion of a sound and adequate community health program; shares in community action leading to betterment of health conditions; participates in programs for the prevention of physical and mental handicaps of children; and assists in the education of handicapped children. Her duties extend to the following specific subjects: Maternity, infant and preschool health, school health, adult health, communicable diseases in general, tuberculosis, syphilis, gonorrhea, noncommunicable diseases in general, orthopedic service, vital statistics, sanitation, nutrition, and mental hygiene.<sup>7</sup>

Concerning maternity, the nurse assists in securing medical and dental examination and supervision early in pregnancy and throughout the antepartum period; assists in planning and preparing for confinement and in securing a postpartum medical

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<sup>4</sup> Regulation adopted by state board of public health on February 17, 1940.

<sup>5</sup> Acts 1935; Burns, 1939 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

<sup>6</sup> *Ibid.*

<sup>7</sup> Interview of May 17, 1940 with Dr. Verne K. Harvey, director of the state board of health.

examination; gives assistance at home confinements and care to the mother and baby during the postpartum period; helps the family to carry out specific medical advice as to maternal hygiene and infant care; and participates in promoting adequate resources for maternity care through utilizing appropriate channels of community education.<sup>8</sup>

Concerning infant and preschool health, the nurse assists in securing complete birth registration; assists in securing medical supervision, dental examination, and correction of defects for every child; assists in the control of communicable diseases through teaching the recognition of early symptoms, the importance of isolation, and the value of immunization; and assists the family to carry out general and specific medical instruction concerning hygiene and the daily regime of the child, including instruction of parents in the desirability of early establishment of sound health habits.<sup>9</sup>

Concerning school health, the nurse participates in formulating and developing a health education program based on the needs of the pupils; assists physicians and dentists in the examination of pupils and the interpretation of findings to teachers, parents, and children; teaches the value of adequate health supervision and facilities for medical and nursing care, and assists in securing corrections of defects; inspects pupils; instructs teachers, parents, and pupils to observe and recognize deviations from normal health; assists in the control of communicable diseases through teaching the recognition of early symptoms, the importance of isolation, and the value of immunization; promotes the maintenance of a healthful school environment—physical, emotional, and social; arranges for the care of emergency and minor injuries and illnesses in accordance with standing medical orders; develops relationships to coordinate school nursing activities with all other health forces of school, home, and community and to promote community health resources; participates in curriculum making; and instructs classes in the principles of healthful living and care of the sick.<sup>10</sup>

Concerning adult health, the nurse encourages periodic health examinations; teaches the fundamentals of personal hygiene in order to assist in the prevention and retardation

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

of those diseases specific to adult life; and assists in securing early diagnosis and treatment of those diseases.<sup>11</sup>

Concerning communicable diseases, in general, the nurse promotes the complete reporting of reportable diseases; teaches the need of medical care; assists the family to carry out isolation and general and specific medical instructions; interprets health department procedure to individuals and groups; assists in making epidemiological investigations; instructs parents, teachers, and other individuals and groups to recognize early symptoms, to isolate suspicious cases, to carry out proper precautions, to prevent the spread of disease, and to appreciate the importance of adequate convalescent care; and helps under medical direction to secure specific immunization.<sup>12</sup>

Concerning tuberculosis, the nurse assists in finding cases, investigating, and obtaining reports of all cases; assists in making epidemiological investigations; helps to arrange for sanitorium and postsanitorium care and rehabilitation of the patient when indicated; teaches the patient and family the importance of personal hygiene and the precautions to be taken to prevent the spread of the disease; helps the patient and his family to maintain a mental and social adjustment toward a long-term communicable disease; helps to educate the public concerning the unmet needs of the community for the prevention, control, and care of tuberculosis; and assists in integrating services of clinics, sanitoriums, private physicians, health department, and other related health and social agencies.<sup>13</sup>

Concerning syphilis and gonorrhea, the nurse assists in finding and investigating cases; assists in making epidemiological investigations; promotes the reporting of cases; promotes continued treatment through assisting the patient to follow prescribed routines; teaches the patient and family the importance of personal hygiene and the precautions to be taken to prevent the spread of these diseases; and teaches scientific facts to individuals and groups to help eliminate the stigma inflicted by modern society upon the victims of these diseases.<sup>14</sup>

Concerning noncommunicable diseases, the nurse assists

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<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

in securing special care for patients having special types of disability, such as orthopedic and cardiac conditions, arthritis, diabetes, and cancer; observes and assists in adjustment of health situations in the homes of patients; teaches general hygiene and the prevention of disease; and puts the family in touch with community resources.<sup>15</sup>

Concerning orthopedic service, the nurse assists in finding orthopedic cases; observes and helps others to recognize environmental conditions or habits which might produce postural or other orthopedic defects, and helps to eliminate such conditions or habits; observes and helps to eliminate conditions for bed patients which might cause contractures, foot drop, or spinal curvature; observes and teaches others to recognize signs of orthopedic defects; gives or obtains skilled physiotherapy treatment under medical direction to prevent deformities and to secure maximum return of power to muscles and joints; and teaches the patient and his family the importance of self-reliance on the part of the crippled person, promoted by encouraging independence in daily routines and interest in useful occupations.<sup>16</sup>

Concerning vital statistics, the nurse teaches, as a part of the antepartum care, the value of birth registration and the importance of accurate statements on the birth certificate; makes sure that all births are registered before closing maternity cases; reports to the county health officer all births and stillbirths known to the nurse; and assists in morbidity and mortality studies which are useful in determining needs and formulating programs.<sup>17</sup>

Concerning sanitation, the nurse ascertains the source of water supply and the means of excreta disposal in the homes visited by her, and notifies the county health officer when these do not appear to be safe; teaches the importance of correcting unsatisfactory conditions, and the methods of immediate protection pending their correction; observes the ventilation and screening in the homes visited; teaches the importance of screens; inquires concerning the source of the milk supply; and teaches standards and the importance of sanitary methods of milk production and handling.<sup>18</sup>

Concerning nutrition and mental hygiene, the nurse uses

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<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

the resources of the community which contribute to good nutrition; observes signs of poor nutrition and their contributing conditions; instructs families concerning the relationship of nutrition to health and normal growth and development; assists families to adapt nutrition information to their own economic and social situations; keeps in mind the variations in human behavior and their significance; uses the mental health resources of the community; and tries to make more productive all contacts with families and individuals.<sup>19</sup>

In accordance with the regulations of the state board of health, the public health nurse makes reports to the county health officer, the state board of health, physicians, and cooperating agencies, and keeps records of her work. Special care must be taken to make these reports and records as accurate as possible.<sup>20</sup>

854. [FAMILY FOLDER]. June 1, 1939-. 1 f. b.

Record and data on open cases under supervision of public health nurse, including:

- i. History of families, showing date of registration; names, ages, sex, color, and address of parents and children; social and sanitary conditions; and complete health and death record.
- ii. History of maternity cases, showing dates of visits; names, ages, color, addresses, and birth-places of parents; name and address of attending physician; name of person referring case; and memoranda on results of visits.
- iii. History of infant cases, showing dates of birth and visit of nurse; name, sex, color, and birth-place of infant; names and addresses of parents; and complete medical history of mother.
- iv. History of crippled children, showing dates of visits; name, date of birth, age, sex, and color of child; names, addresses, and occupations of parents; memoranda of results of visits; and complete health data of child.
- v. Record of supervision for tuberculosis control, showing dates of examination, treatments, and discharge; name, age, sex, color, marital status,

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<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

- and address of patient; data relative to possible source of infection; physician's diagnosis; and hospital and clinic treatments.
- vi. Record of morbidity cases, showing dates of visits; name, date of birth, sex, color, occupation, and address of patient; name of physician; nature of illness; and complete data of case.
  - vii. Record of preschool supervision of children, showing dates of visits; name, age, sex, color, and birthplace of child; names, ages, addresses and occupations of parents; name of person referring case; data relative to food and general habits and observations; conferences; and recommendations of nurse.
  - viii. Record of school health supervision, showing name, address, date of birth, sex, and color of child; names and occupations of parents; names of school and family physician; date and nature of disease experience; number and nature of vaccinations; complete data of medical examination; and nurse's inspection.

Arr. alph. by surnames of families. No index. Hdw. 5 x 8 x 12. Pub. hlth. nurse off., City Hall.

For other family folder records, see entry 355.

355. [FAMILY FOLDERS, CLOSED CASES], June 1, 1939-. 1 f. d. Record and data on closed cases that were under supervision of public health nurse, showing information as in entry 354. Arr. alph. by surnames of families. No index. 12 x 15 x 26. Pub. hlth. nurse off., City Hall.

356. [REPORT OF CASES], June 1, 1939-. 1 f. b. Record of cases reported to public health nurse, showing date, time, and nature of report; name and address of person reported; name of person making call; and name of physician concerned. Arr. chron. by dates of reports. No index. Hdw. 3 x 5 x 12. Pub. hlth. nurse off., City Hall.

357. [REMINDER OR TICKLER RECORD], June 1, 1939. 1 f. b. Card file of cases to be revisited, showing dates of first call and revisits, and name and address of patients. Arr. alph. by names of patients. No index. Hdw. 3 x 5 x 12. Pub. hlth. nurse off., City Hall.

358. [ANTE-PARTUM REPORTS], June 1, 1939-. 1 f. d. Nurse's reports to attending physicians of prenatal cases, showing name and address of physician and patient, date of visit, patient's age, complete data of nurse's examination, and advice given. Arr. alph. by names of patients. No index. Hdw. 5 x 8 x 12. Pub. hlth. nurse off., City Hall.

## 359. [BIRTH RECORDS], June 1, 1939-. 1 f. b.

Record of children born to mothers under care of public health nurse, showing date of birth; name and sex of child; name, sex, and address of head of family; name of physician; date and nature of services; and date discharged. Arr. alph. by names of children. No index. Hdw. 3 x 5 x 18. Pub. hlth. nurse off., City Hall.

360. [DAILY AND MONTHLY REPORTS], June 1, 1939-. 1 f. d. Nurse's daily and monthly health supervision reports to board of county commissioners, showing date of report; name of nurse; district number; miles traveled; number, classification, and total of child and adult cases; nature and number of lectures given; names and addresses of patients; and summary of results. Arr. chron. by dates of reports. No index. Typed. 15 x 15 x 26. Pub. hlth. nurse off., City Hall.

361. [QUARTERLY REPORTS], June 1, 1939-. 1 f. d. Nurse's quarterly reports to Indiana State Board of Health, including tuberculosis and communicable and venereal disease control, admissions to hospitals, maternity, morbidity and crippled children service, and infant, preschool, school, and adult hygiene, showing date of report and period covered; name and population of health unit; office, field, and clinical data of patients; total number of admissions to service; details and statistics of each kind of service rendered; advice, instruction, examinations, and treatments given; operations performed; and results attained. Arr. chron. by dates of reports. No index. Typed. 15 x 15 x 26. Pub. hlth. nurse off., City Hall.

## XXIV. COUNTY DEPARTMENT OF PUBLIC WELFARE

## LEGAL STATUS

The county department of public welfare exists under the mandatory provisions of an act of 1936. The department's affairs are administered by the county board of public welfare and a county director of public welfare.<sup>1</sup> The department is a legal entity and its official name is "The County Department of Public Welfare of Morgan County." It may sue and be sued in that name.<sup>2</sup>

<sup>1</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1117 to 52-1119, 52-1126; Baldwin, 1937 suppl., 14078-18 to 14078-20, 14078-27.

<sup>2</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1122 (a); Baldwin, 1937 suppl., 14078-23.

Before the present system of welfare was organized, the county administered aid to the poor and needy through discretionary powers granted to the county. County asylums were established at an early date to care for those who were without homes and means to care for themselves.<sup>3</sup> An act of 1857 authorized the board of commissioners to give aid to needy blind and infirm poor.<sup>4</sup> In 1901 the board of children's guardians was established in the county to provide adequate care and supervision of neglected and dependent children.<sup>5</sup> The board of county charities and corrections (organized in 1899) inspected and advised changes in the county institutions.<sup>6</sup> A system of old-age pensions was provided for by an act of 1933.<sup>7</sup> These previous methods of welfare assistance were merged into the present welfare law.<sup>8</sup>

Since the early days of the county, township poor relief has been administered by the township overseers of the poor (now the township trustees), from funds raised by township tax levies. Such poor relief is separate and distinct from the public welfare system discussed herein, but the two systems are often confused by the public.<sup>9</sup>

The county board of public welfare consists of five members appointed for 4-year terms by the judge of the circuit court. Each member serves until his successor is appointed and qualified. At least two members must be women and not more than three members may be adherents of the same political party. The members must have resided in the county for 2 years before appointment, must have a definite and recognized interest in public welfare, and must take an oath to support the state and federal constitutions and faithfully discharge the duties of this office.<sup>10</sup>

<sup>3</sup> Const. 1816, art. 9, sec. 4. Const. 1851, art. 9, sec. 3. Rev. Stat. 1843, ch. 19, sec. 34.

<sup>1</sup> Rev. Stat. 1852; Burns 52-201; Baldwin 1<sup>o</sup>360. Acts 1901; Burns 52-104; Baldwin 13361.

<sup>4</sup> Acts 1857; Burns 26-1202; Baldwin 5295.

<sup>5</sup> Acts 1901, 1923, 1927; Burns 22-2801, 22-2802; Baldwin 5684, 5685.

<sup>6</sup> Acts 1899; Burns 22-2901 to 22-2903; Baldwin 4116 to 4118.

<sup>7</sup> Acts 1933, ch. 36, secs. 1-27 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

<sup>8</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-22, 14078-122.

<sup>9</sup> Acts 1816-17, ch. 26, sec. 1. Acts 1817-18 (general), ch. 14, secs. 1-24. Rev. Laws 1824, ch. 15, sec. 7; ch. 72, secs. 1-25. Rev. Laws 1831, ch. 69, secs. 1-27. Rev. Stat. 1838, ch. 20, sec. 20. Rev. Stat. 1843, ch. 5, sec. 69. 1 Rev. Stat. 1852, ch. 81, secs. 1-38. Acts 1901, ch. 147, secs. 1-39. Acts 1935; Burns, 1939 suppl., 52-145 to 52-182a; Baldwin, 1935 suppl., 13320-2 to 13359-12.

<sup>10</sup> Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

The judge of the circuit court may, at any time, after due notice in writing, remove any member of the county board of public welfare for misconduct, incapacity, or neglect of duty. A vacancy in the membership of this board is filled through appointment by the judge of the circuit court; and the appointee holds office for the unexpired term and until his successor is appointed and qualified.<sup>11</sup>

Regular meetings of the county board of public welfare are held once a month. The August meeting is known as the annual meeting. Other meetings may be held pursuant to call. Three members of the board constitute a quorum for transacting business.<sup>12</sup>

The members of the county board of public welfare serve without compensation, but each member is entitled to receive 5 cents per mile for each mile actually and necessarily traveled in attending board meetings and state conventions of county board members.<sup>13</sup>

Executive and administrative work of the county department of public welfare is carried on by the county director of public welfare, who serves as secretary of the board. He is appointed by the county board of public welfare to serve for an indefinite term. The appointment is made solely on the basis of merit from eligible lists established by the Indiana State Department of Public Welfare. He must have resided in the county for 2 years before appointment, unless no suitable person with such residence is available. The director must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office. He must post bond in an amount (not exceeding \$5,000) fixed by the state department of public welfare, to be approved by the judge of the circuit court and filed in the office of the clerk of the circuit court.<sup>14</sup>

The county director of public welfare may be removed from office at any time by the county board of public welfare. If the state department, after notice and hearing, determines that the county director's duties, functions, and activities are not performed in compliance with the welfare laws and regulations, the state department may order the county board

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<sup>11</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

to remove him from office. Vacancies in the office of county director are filled in the manner in which original appointments are made, except as otherwise stated hereinafter. If a successor is not appointed within 30 days after removal is ordered by the state department, or if any vacancy is not filled by the county board within 30 days after the vacancy occurs, the state department may appoint a successor to serve at the pleasure of the state department.<sup>15</sup>

The county director of public welfare receives a salary in an amount fixed by the county board of public welfare, within the salary ranges established by the state department. He also receives 5 cents per mile for each mile necessarily traveled in the discharge of his duties.<sup>16</sup>

The county director, with the approval of the county board, appoints the assistants in the department, from eligible lists compiled by the state department of public welfare, and determines the salary of these assistants. Each assistant must have been a resident of the county for 2 years before his appointment, unless a suitable person with such residence is not available.<sup>17</sup>

#### FUNCTIONS AND RECORDS

Subject to the rules and regulations prescribed by the state department of public welfare, the county department is charged by statute with the administration of assistance to dependent children in their own homes, old-age assistance, the care and treatment of dependent, neglected, and handicapped children and children in danger of becoming delinquent, and services and assistance to the blind and to persons otherwise handicapped. The state and county departments also administer provisions and benefits of the federal "Social Security Act" of August 14, 1935. The county director performs the duties prescribed by law for the probation officer of the circuit court (concerning any welfare matters before the court), when so directed by the circuit court; but he cannot hold the office of probation officer. The county department must report to the state department "at such times and in such manner as the state department may, from time to time,

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<sup>15</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

<sup>16</sup> *Ibid.* Interview of August 14, 1939 with Thurman A. Gottschalk, administrator of the state department of public welfare.

<sup>17</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1123; Baldwin, 1937 suppl., 14078-24.

direct." Necessary quarters for the county department must be provided by the board of commissioners.<sup>18</sup>

Expenditures for welfare assistance and administrative expenses (including rent of office quarters) of the county department are paid from the county welfare fund raised by a separate tax levy,<sup>19</sup> to which are added such repayments as may be under legal liability by recipients, their parents, children, or other person liable for their support.<sup>20</sup> Old-age assistance certificates, filed with the recorder, establish liens against estates of recipients to insure reimbursement.<sup>21</sup> From state funds the county receives, as partial reimbursement, 60 percent of the amount paid by the county for assistance to aged persons and dependent children plus 50 percent of the amount paid by the county for personal services in the administration of the Welfare Act. A part of other funds received by the state from the federal government for welfare purposes is distributed to the counties as additional reimbursement for assistance given to aged persons and dependent children. These reimbursements are paid into the county welfare fund.<sup>22</sup> All claims for administrative expenses are subject to allowance by the board of commissioners. Claims for assistance are determined by the department and approved by the director, and need not be allowed by the board of commissioners.<sup>23</sup> The county board of public welfare may accept gifts of personal property or income from real estate, for the homes or support of dependent children.<sup>24</sup>

The auditor keeps the records relating to the county welfare fund and its financial transactions.<sup>25</sup> The county department keeps such records and accounts as are required by the state department of public welfare.<sup>26</sup> All records

<sup>18</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1113, 52-1120; Baldwin, 1937 suppl., 14078-14, 14078-21. *Opinions of the Attorney General of Indiana, 1936*, p. 155.

<sup>19</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1120, 52-1301; Baldwin, 1937 suppl., 14078-21, 14078-98.

<sup>20</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

<sup>21</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

<sup>22</sup> Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1124a, 52-1219, 52-1249, 52-1254; Baldwin, 1937 suppl., 14078-24a, 14078-50, 14078-80, 14078-85. "Annual Report of the Department of Public Welfare, 1938-1939," *Year Book of the State of Indiana for the Year, 1939*, p. 928.

<sup>23</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

<sup>24</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1122(b); Baldwin, 1937 suppl., 14078-23.

<sup>25</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1401; Baldwin, 1937 suppl., 14078-113.

<sup>26</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1260, 52-1402; Baldwin, 1937 suppl., 14078-91, 14078-114.

are confidential, except the following: (a) Applications for assistance, (b) awards, and (c) modification and revocation of awards.<sup>27</sup>

#### PROCEEDINGS

##### 362. MINUTE BOOK, 1936-. 1 vol.

Minutes of meetings of board of public welfare, showing date and place of meeting, names of members present, business transacted, and action taken. Arr. chron. by dates of meetings. No index. Typed. 300 pp. 14 x 10 x 2. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

363. RECOMMENDATIONS OF COUNTY DIRECTOR, 1936-. 1 vol. Record of recommendations of county director and actions of county board of public welfare as to rejections, grants, modifications, and revocations of awards of assistance to the aged, to dependent children, and to the blind, showing dates of recommendation and meetings, names and addresses of applicant and recipient, amount awarded, application and certificate numbers, and date of notice. Arr. chron. by dates of meetings. No index. Typed. 150 pp. 14 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

364. [APPOINTMENTS AND AUTHORIZATIONS], 1937-. 1 f. d. Appointments to staff and authorizations to administer oaths, including:

- i. Copies of appointments by county director to staff positions, showing dates of appointment and approval; name, address, title, salary, and monthly travel allowance of appointee; and list of eligible appointees.
- ii. Copies of authorizations by board of public welfare to staff members to administer oaths and affirmations, showing dates of authorization, oath, and filing; and name and title of staff member. Arr. alph. by names of staff members. No index. Typed. 12 x 15 x 26. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

#### OLD-AGE ASSISTANCE

(See also entries 92, 93, 284, 316)

365. [MASTER INDEX CARD SYSTEM], 1936-. 3 f. d. Card index to Register of Applications, Old-Age Assistance,

<sup>27</sup> Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1262; Baldwin, 1937 suppl., 14078-93.

entry 366; Applications for Aid to Blind, entry 376; and Register of Applications for Aid to Dependent Children, entry 378; showing dates of application, award and rejection, withdrawal, or cancellation; application code and serial numbers; name, address, and personal history of applicant; and nature and amount of assistance granted. Arr. alph. by names of applicants. Typed. 4 x 6 x 11. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

366. REGISTER OF APPLICATIONS, OLD-AGE ASSISTANCE, June 13, 1936-. 1 vol.

Record of applications for old-age assistance, showing date and number of application; name, address, age, and sex of applicant; name of visitor; and nature of action taken by board. Arr. chron. by dates of applications. For index, see entry 365. Typed. 150 pp. 14 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

367. OLD AGE PENSIONS, 1933-June 12, 1936. 1 vol. (1). Transcripts of old-age assistance applications, showing date of application; name, address, age, sex, color, and family history of applicant; statement of ownership of property; date and nature of action taken; and amount awarded. Arr. alph. by names of applicants. No index. Typed. 900 pp. 18 x 12 x 3¾. Aud. vt.

368. OLD AGE ASSISTANCE, 1936-. 3 f. d.

Original documents of active and inactive old-age assistance cases, including applications, statements of relatives, face sheets, recommendations, certificates of award, visitors' reports, employment record, statement of ownership of real estate, life insurance adjustments, and rejections and cancellations, showing date, nature, and number of document; name, age, and family history of applicant; and amount of assistance granted. Arr. num. by case nos. No index. Typed. 10 x 15 x 24. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

369. RECORD OF ASSISTANCE GIVEN AGED, 1936-. 1 vol. Record of awards granted and payments made to the aged, showing application code and serial numbers, name and address of recipient, amounts paid under 1933 and 1936 acts, amounts paid in county of former residence, assignments of life insurance and other assets, and dates, numbers, and amounts of warrants. Arr. num. by serial nos. No index. Typed. 150 pp. 14 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

370. [ASSIGNMENTS AND CLAIMS], 1937-. 1 f. d.

Contains:

- i. Original assignments of life insurance policies and other assets of recipients of old-age assistance, showing date of assignment, nature and amount of assets, and name and address of recipient. Arr. alph. by names of recipients.
- ii. Copies of claims filed with the state department of public welfare for reimbursement of burial expenses, showing names of deceased and mortician; application, claim, and warrant numbers; amounts of claim and warrant; and amount due from state department. Arr. chron. by dates of claims.

No index. Typed. 12 x 15 x 26. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

371. [ALLOWANCE SCHEDULE FOR OLD-AGE ASSISTANCE], 1938-.

1 vol.

Schedules of allowances for old-age assistance, showing date of schedule, name and address of payee, amounts of federal and local allotment, total allowance, and application and warrant numbers. Arr. alph. by names of payees. No index. Typed. 18 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

372. TRANSFERS, 1937-. 1 vol.

Certified schedules of payments of old-age assistance and dependent children awards to recipients who have moved from one county to another, showing dates of schedule, certification, and last payment; name and address of recipient; names of child, county, and directors; and application, award, and withdrawal certificate numbers. Arr. num. by application nos. No index. Typed. 50 pp. 9 x 15 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

373. MONTHLY STATISTICAL REPORT ON OLD-AGE ASSISTANCE, LIST OF APPLICATIONS PENDING FROM PREVIOUS MONTH, 1936-. 1 vol.

Monthly statistical report and list of applications pending, showing date of report; code and application numbers; name, age, and sex of applicant; and nature and disposition of application. Arr. chron. by dates of reports. No index. Typed. 50 pp. 14 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

374. MONTHLY STATISTICAL REPORT ON OLD-AGE ASSISTANCE, LIST OF APPLICATIONS RECEIVED THIS MONTH, 1936-. 1 vol.

Monthly reports on old-age assistance and list of applica-

tions received, showing date of report; code and application numbers; name, age, and sex of applicant; and nature of disposition. Arr. chron. by dates of reports. No index. Typed. 50 pp. 14 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

375. MONTHLY STATISTICAL REPORT ON OLD-AGE ASSISTANCE,  
SUMMARY OF APPLICATIONS AND OPEN CASE LOAD, 1936-.  
1 vol.

Record of monthly statistical reports on old-age assistance, including summary of applications and open case load, showing date of report; number of applications received, disposed of, and pending; total amount of payments; and number of burials. Arr. chron. by dates of reports. No index. Typed. 50 pp. 10 x 14 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

BLIND

376. APPLICATIONS FOR AID TO BLIND, 1936-. 1 f. d.

Original documents of active and inactive cases of assistance to blind, including applications, visitors' and physicians' reports, certificates of award, and rejections or withdrawals, showing date and nature of document; application code and serial numbers; name, address, age, sex, color, and family history of recipient; names of visitor, physician and guardian; and date and amount of monthly payment. Arr. num. by serial nos. For index, see entry 365. Typed. 10 x 15 x 24. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

377. RECORD OF ASSISTANCE GIVEN BLIND, 1936-. 1 vol.

Record of monthly assistance given to the blind, showing dates of certificate of award and payments; name, age, and address of recipient; amount of monthly assistance; and certificate, application and warrant numbers. Arr. num. by application nos. No index. Typed. 14 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

DEPENDENT CHILDREN

378. REGISTER OF APPLICATIONS FOR AID TO DEPENDENT CHILDREN,  
1936-. 1 vol.

Register of applications for aid to dependent children, showing dates of application, visitors' assignment and board action; name, address, age, sex, and color of child; names of parent, guardian, or custodian; application code and serial numbers; and amount of award. Arr. chron. by dates of appli-

cations. For index see entry 365. Typed. 150 pp. 14 x 10 x 1½. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

389. DEPENDENT CHILDREN'S AID, 1936-. 1 f. d.

Original documents of active and inactive cases of assistance for dependent children, including applications, visitors' reports, recommendations, certificates of award, rejections and withdrawals, showing date, nature, and serial number of document; name, age, sex, color, and family history of child; name of parent, guardian, or custodian; and amount of award. Arr. num. by serial nos. No index. Typed. 10 x 18 x 24. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

380. [APPLICATIONS, PAYMENTS FOR SERVICES TO CRIPPLED CHILDREN], 1936-. 1 f. d.

Applications and payments for services, including:

- i. Original applications for aid to crippled children, showing dates of application and investigation; names of child, parent, guardian or custodian, and visitor; and age, sex, color, date of birth, and nature of affliction of child.
- ii. Payments for services to crippled children, showing date, nature, number, and amount of warrant; and names and addresses of child, parent, guardian or custodian, payee, and hospital.

Arr. num. by application and warrant nos. No index. Typed. 12 x 15 x 26. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

381. RECORD OF ASSISTANCE GIVEN DEPENDENT CHILDREN, 1936-.  
1 vol.

Record of payments of allowances for support of dependent children, showing application code and serial numbers; name, age, and sex of child; name and address of parent, guardian or custodian; date and amount of award; date, number and amount of warrant; and total payments for year. Arr. num. by application nos. No index. Typed. 100 pp. 14 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

382. ALLOWANCE SCHEDULE OF AID FOR DEPENDENT CHILDREN WHO ARE IN CUSTODY OF RELATIVES, 1938-. 1 vol.

Schedules of allowances for aid to dependent children in custody of relatives, showing date of schedule; application code, serial and warrant numbers; name of child; name and address of payee; amounts of federal and local allotment; and total allowance. Arr. alph. by names of children. No index. Typed. 200 pp. 18 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

383. [ALLOWANCE SCHEDULE FOR DEPENDENT CHILDREN], 1938-.  
1 vol.

Schedule of allowances for assistance to public wards in custody of individuals, showing date of schedule; application code, serial, and warrant numbers; name of child; name and address of payee; amounts of federal and local allotment; and total allowance. Arr. alph. by names of wards. No index. Typed. 200 pp. 18 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

384. MONTHLY STATISTICAL REPORT ON AID TO DEPENDENT CHILDREN, LIST OF APPLICATIONS PENDING FROM PREVIOUS MONTH, 1936-. 1 vol.

Record of monthly statistical reports of aid to dependent children and list of applications pending, showing date of report; name, age, and sex of child; name of parent, guardian or custodian; application code and serial numbers; and nature and disposition of application. Arr. chron. by dates of reports. No index. Typed. 50 pp. 14 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

385. MONTHLY STATISTICAL REPORT ON AID TO DEPENDENT CHILDREN, LIST OF APPLICATIONS RECEIVED THIS MONTH, 1936-.  
1 vol.

Record of statistical reports of aid to dependent children and list of applications received, showing dates of report, application and disposal; application code and serial numbers; name, age, sex, and color of child; name of parent, guardian or custodian; and nature of disposition. Arr. chron. by dates of reports. No index. Typed. 50 pp. 14 x 10 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

386. MONTHLY STATISTICAL REPORT OF AID TO DEPENDENT CHILDREN, SUMMARY OF APPLICATIONS AND OPEN CASE LOAD, 1936-. 1 vol.

Record of monthly statistical reports to state department on aid to dependent children, including summary of applications and open case load, showing date of report; names of parent, guardian, or custodian; number of applications received, disposed of, and pending; amount of assistance granted; and total payments. Arr. chron. by dates of reports. No index. Typed. 50 pp. 10 x 14 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

PAROLES

387. [PRE-PAROLE, PAROLE, PAROLEE'S REPORTS], 1937-.  
1 f. d.

Pre-parole, parole and parolee's reports, including:

- i. Pre-parole report from county director of public welfare on request of warden or superintendent of penal institution concerning moral, financial and general fitness of person named as sponsor for parolee, showing dates of request and report; name, age, and prison number of inmate; name, address, and occupation of sponsor; and recommendations of county director.
- ii. Parolee's monthly reports to county director of public welfare, showing date of report; and name, address, and employment statement of parolee.
- iii. Parole reports of county director of public welfare to state department of public welfare, division of corrections, on parolees, showing date of report; name, address, and occupation of parolee; name and address of employer; statements pertaining to conduct and welfare of parolee; and recommendations of county director.

Arr. alph. by names of parolees. No index. Typed. 12 x 15 x 26. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

#### RECEIPTS AND DISBURSEMENTS

388. DUPLICATE RECEIPTS FOR REPAYMENT OF PUBLIC ASSISTANCE, 1936-. 1 vol.

Copies of receipts issued to persons reimbursing county welfare department for assistance granted, showing date, number, nature, and amount of receipt; case number; and names of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 18 x 19 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

#### CLAIMS

389. REGISTER OF CLAIMS FILED, APPROVED AND WARRANTS ISSUED, 1936-. 1 vol.

Record of appropriations and disbursements of welfare funds, showing dates of claim, filing, approval, and payment; nature, number, and amount of warrant; amount of appropriations; and names of payee and fund. Arr. chron. by dates of warrants. No index. Typed. 150 pp. 14 x 10 x 2. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

390. CERTIFICATION TO STATE DEPARTMENT OF PUBLIC WELFARE OF MONTHLY REPORT OF CLAIMS PAID, 1936-. 1 vol.

Copies of county director's and auditor's certifications to

state department of public welfare of the monthly report of claims paid, showing number of pages of report, dates of report and certification, and total amount of claims paid. Arr. chron. by dates of reports. No index. Typed. 12 x 9 x 1. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

391. [CLAIMS AND ROAD SHEETS], 1936-. 1 f. d.

Contains:

- i. Original claims of staff members and employees for services rendered, and vendors claims for supplies furnished, showing date, nature, number, and amount of claim; itemized list of services or supplies; and name of claimant. Arr. chron. by dates of claims.
- ii. Original road sheets of county director, showing date of sheet, miles traveled, rate of allowance per mile, and total amount. Arr. chron. by dates of road sheets.

No index. Hdw. and typed. 12 x 15 x 26. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

392. CLAIMS, 1937-. 1 vol.

Record of claims against estates of deceased recipients of old-age assistance, showing dates of claim, filing, and settlement; names of recipient and trial court; amounts of claim and settlement; register, application, and docket numbers; and disposition of settlement proceeds. Arr. alph. by names of deceased recipients. No index. Typed. 50 pp. 12 x 15 x ½. Pub. welf. off., 59½ N. Jefferson St., Martinsville.

## XXV. SURVEYOR

### LEGAL STATUS

The office of surveyor was created by an act of 1818, was reestablished by acts of 1824, 1831, 1833, 1838, 1843, and the Constitution of 1851, and has existed in Morgan County since 1822. The surveyor is elected by the voters of the county for a 2-year term, without restriction on reelection.<sup>1</sup> He is commissioned by the Governor of Indiana<sup>2</sup> and

<sup>1</sup> Const. 1851, art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3301; Baldwin 5504. See footnotes 14 and 15 herein.

<sup>2</sup> Const. 1851, art. 15, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. Laws 1824, ch. 104, sec. 1. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

holds office until his successor is elected and qualified.<sup>3</sup> The surveyor must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,<sup>4</sup> must reside within the county after his election, and must not hold any other lucrative office.<sup>5</sup> He must post bond in an amount of not less than \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.<sup>6</sup> The surveyor must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.<sup>7</sup>

The surveyor is entitled to receive a regular salary of \$950 per year for his services as county surveyor. The law provides that his salary shall be one and one-half times that amount if he is "a qualified licensed engineer." While serving as county highway supervisor he is entitled to receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year). He cannot receive both salaries. When he furnishes his own or a hired conveyance, he receives 6 cents for each mile necessarily traveled by him while performing his duties concerning drainage and 5 cents for each mile necessarily traveled in the discharge of his duties as county highway supervisor.<sup>8</sup> He is not entitled to retain, as compensation for himself, any fees collected by him.<sup>9</sup>

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<sup>3</sup> Const. 1851, art. 15, sec. 3. Pursel v. State *ex rel.* Roney (1887), 111 Ind. 519, 12 N. E. 1003; Boyles v. State *ex rel.* Riggs (1887), 112 Ind. 147, 13 N. E. 415.

<sup>4</sup> Const. 1851, art. 6, sec. 4.

The surveyor is not required to be a registered professional engineer or land surveyor. *Opinions of the Attorney General of Indiana, 1939*, p. 269.

<sup>5</sup> Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. Laws 1824, ch. 104, sec. 1. Rev. Laws 1831, ch. 102, sec. 1. State *ex rel.* Bateman v. Hart (1914), 181 Ind. 592, 105 N. E. 149. *Opinions of the Attorney General of Indiana, 1934*, p. 500; 1935, p. 103.

<sup>6</sup> Acts 1817-18 (general), ch. 30, sec. 1, Rev. Laws 1824, ch. 104, sec. 1. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

<sup>7</sup> Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 30, sec. 1. Rev. Laws 1824, ch. 104, sec. 1, Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

<sup>8</sup> Acts 1932; Burns 27-103, 36-1101, 36-1110, 49-1004, 49-1010; Baldwin 5739, 8699, 8078, 7534, 7540.

He receives no additional compensation for doing engineering work for the county highway supervisor. *Opinions of the Attorney General of Indiana, 1939*, p. 269.

<sup>9</sup> Acts 1932; Burns 49-1005; Baldwin 7535.

For sufficient legal grounds the surveyor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.<sup>10</sup> If the surveyor is convicted of a felony the judgment of conviction must declare his office vacant.<sup>11</sup>

Any vacancy in the office of surveyor is filled through appointment by the board of commissioners. The appointee must take oath and post bond as was required of his predecessor, and he holds office for the unexpired term and until his successor is elected and qualified.<sup>12</sup>

The board of commissioners may appoint, on the recommendation of the surveyor, such number of deputy surveyors as may be necessary, determine whether they be full-time or part-time employees, and fix the salary of each deputy in an amount not exceeding \$200 per month. Such salaries are paid from the county treasury after an appropriation therefor is made by the county council. The surveyor may require any deputy to give bond. The deputies must take an oath of office, may perform all of the surveyor's official duties, are subject to the same regulations and penalties, and may be removed from office by the board of commissioners. The township trustees are ex officio deputy surveyors (without additional compensation) in their respective townships.<sup>13</sup>

From the organization of Morgan County in 1822<sup>14</sup> until 1831 a county surveyor was appointed for an indefinite term by the Governor of Indiana. From 1831 until 1833 such appointments were made by the board doing county business. From 1833 until 1843 he was appointed for a 3-year term by the circuit court. From 1843 until 1851 the board of commissioners made these appointments.<sup>15</sup>

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<sup>10</sup> Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

<sup>11</sup> Acts 1897, 1899; Burns 49-834; Baldwin 13050.

<sup>12</sup> Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. State *ex rel.* Culbert v. Linkhauer (1895), 142 Ind. 94, 41 N. E. 325. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

<sup>13</sup> Acts 1817-18 (general), ch. 30, sec. 3. Rev. Laws 1824, ch. 104, sec. 2. Rev. Laws 1831, ch. 102, sec. 2. Acts 1933; Burns 27-102, 36-1103; Baldwin 5738, 8701. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502, 49-3307; Baldwin 13109, 5513. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

<sup>14</sup> Acts 1821-22, ch. 24, sec. 1.

<sup>15</sup> Acts 1817-18 (general), ch. 20, sec. 1. Rev. Laws 1824, ch. 104, sec. 1. Rev. Laws

## FUNCTIONS AND RECORDS

The surveyor has charge, under the direction of the board of commissioners, of all surveying and civil engineering of the county. He has charge of the preparation of plans and specifications for construction of all roads, bridges, ditches, drains, and levees; and he supervises such construction. He also has charge of the maintenance of all ditches and drains.<sup>16</sup> If he is not a licensed engineer or is disqualified from performing his duties by reason of ownership of lands or kinship to any person whose lands are affected, the court appoints a disinterested licensed engineer to act in the matter.<sup>17</sup> From 1885 until 1933 the surveyor served ex officio as a drainage commissioner with a drainage commissioner appointed by the board of commissioners.<sup>18</sup>

Since 1933 it has been the duty of the county surveyor to supervise the maintenance of county highways, bridges, and culverts, unless the board of commissioners appoints another person to serve as county highway supervisor.<sup>19</sup> In Morgan County the surveyor is serving as ex officio county highway supervisor.<sup>20</sup> The surveyor is required to attend all sessions of the annual road school conducted by Purdue University. His expenses for such attendance are paid from the general fund of the county.<sup>21</sup>

On application of the surveyor it is the duty of the board of commissioners to provide for the location and establishment of a true and permanent meridian line at or near the county seat and upon public lands belonging to the county. After the completion and location of such established meridian line, the surveyor must file with the recorder a com-

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1831, ch. 102, sec. 1. Acts 1832-33, ch. 74, secs. 4, 5. Rev. Stat. 1838, ch. 103 (1), sec. 1; ch. 103 (2), secs. 4, 5. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.

<sup>16</sup> Acts 1933; Burns 27-101, 27-103, 27-104, 27-107 to 27-109, 27-111 to 27-116; Baldwin 5737, 5739, 5740, 5743 to 5745, 5747 to 5752. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

Work done by employees of Civilian Conservation Corps or Work Projects Administration under supervision of the county surveyor. Acts 1939; Burns, 1939 suppl., 27-233; Baldwin, 1939 suppl., 5794-9.

<sup>17</sup> Acts 1819-20, ch. 24. Rev. Laws 1824, ch. 104, sec. 3. Acts 1933; Burns 27-102; Baldwin 5738.

<sup>18</sup> Acts 1885 (Spec. Sess.), ch. 40, sec. 1. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, secs. 1, 21. Acts 1933, ch. 264, sec. 81.

<sup>19</sup> Acts 1933; Burns 36-1101, 36-1102, 36-1110; Baldwin 8699, 8700, 8708.

<sup>20</sup> See the essay entitled "County Highway Supervisor."

<sup>21</sup> Acts 1925; Burns 49-3323; Baldwin 5520.

plete description of the marked meridian line and thereafter check his instruments against the line as often as necessary.<sup>22</sup>

The surveyor administers certain oaths,<sup>23</sup> takes acknowledgments of mortgages and deeds for the conveyance of real estate,<sup>24</sup> and makes surveys to establish lines and corners of any lands in the county when requested to do so.<sup>25</sup> Surveys made by the surveyor are *prima facie* evidence in favor of the corners established and the lines run, but an appeal to the circuit court may result in a resurvey by some other competent person.<sup>26</sup> For his services other than for the county he charges the fees provided by statutory schedule and pays the same over to the county treasurer.<sup>27</sup>

The deputies return to the surveyor all field notes taken by them.<sup>28</sup> The surveyor is required to preserve a copy of the original field notes of the surveys of the townships in his county,<sup>29</sup> and keep a record of all surveys made by him.<sup>30</sup>

#### SURVEYS

(See also entry 77)

393. SURVEYOR'S RECORD FIELD NOTES, 1819-. 9 vols. Record of field notes made from original United States and subsequent surveys, including a plat of each section, showing dates of survey and recording, names of townships, section and range numbers, corners, acres, and drainage. Arr. chron. by dates of surveys. No index. Hdw. 150 pp. 12 x 9 x 1½. Surv. off.

#### PUBLIC IMPROVEMENTS

(See also entries 22, 23, 230-235, 399-405)

<sup>22</sup> Acts 1895; Burns 49-3327, 49-3328; Baldwin 10849, 10850.

<sup>23</sup> 1 Rev. Stat. 1852; Burns 49-3316; Baldwin 5518.

<sup>24</sup> 1 Rev. Stat. 1852, Acts 1857; Burns 49-3317; Baldwin 5519.

<sup>25</sup> Rev. Laws 1831, ch. 102, sec. 6, Acts 1832-33, ch. 74, sec. 3. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311, 49-3312; Baldwin 5509, 5510.

<sup>26</sup> 1 Rev. Stat. 1852; Burns 49-3313; Baldwin 5515. Acts 1901; Burns 49-3314; Baldwin 5516.

<sup>27</sup> Rev. Laws 1824, ch. 41, secs. 7, 9. Rev. Laws 1831, ch. 102, sec. 6. Acts 1933; Burns 49-1005; Baldwin 7525. Acts 1875 (Spec. Sess.); Burns 49-3318; Baldwin 5521.

<sup>28</sup> 1 Rev. Stat. 1852; Burns 49-3307; Baldwin 5513.

<sup>29</sup> Rev. Laws 1831, ch. 102, sec. 5. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

<sup>30</sup> 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311; Baldwin 5509.

394. [SURVEYOR'S FIELD NOTE BOOKS, ROADS, BRIDGES, DITCHES], 1891-. 145 vols.

Handbooks used by surveyor for recording notes in surveys of roads, bridges, and ditches, showing date and location of survey, names of surveyor and road, bridge or ditch, repairs needed or new construction, levels, tracings, bench marks and cornerstones. Arr. chron. by dates of surveys. No index. Hdw. 100 pp. 7 x 4 x ½. Surv. off.

395. [BLUEPRINTS AND SPECIFICATIONS OF BRIDGE AND ROAD CONSTRUCTION], 1885-. 55 bdls., 5 cartons.

Blueprints and specifications of bridges and roads proposed and constructed, showing dates of blueprint and specifications, names of engineer and contractor, and complete specifications of road or bridge. No obvious arr. No index. Blueprints, hdw. and typed. Condition poor. Bdls., size varies; cartons, 18 x 24 x 30. 55 bdls., 1885-, surv. off.; 5 cartons, 1889-1930, N. stor. rm., attic.

396. DRAINAGE CLEANOUT RECORD, 1923-. 1 vol.

Drainage commissioners' record of apportionments of stations to property owners for cleaning and repairing ditches and drains, showing date of report; names of property owner, ditch, and surveyor; location and description of land; specifications of repairs; and amount of benefits assessed. Arr. chron. by dates of reports. Indexed alph. by names of ditches. Hdw. 295 pp. 18 x 12 x 3. Surv. off.

#### MAPS

397. DRAINAGE MAP OF MORGAN COUNTY, 1884-. 1 vol.

Drainage maps, showing date of map; names of ditch, engineer, drainage commissioners, townships, and landowners benefited; township, section, range, and Congressional Township lines and numbers; streams and ditches; and location and description of lands. Arr. by names of twps. Indexed alph. by names of ditches. Drawn by Elmer C. Fowler, Martinsville. Blueprints. Scale varies. 20 pp. 36 x 27 x 2. Surv. off.

398. MORGAN COUNTY INDIANA, 1931. 1 map.

Political and communications map, showing date of map; county, township and section lines; acreage and plats of all lands outside of cities and towns; names of landowners, townships, cities, towns, villages, streams, cemeteries, highways, and railroads; and rural route and state highway numbers. Drawn by Cecil Molinelli, Martinsville. Blueprint. Scale: 1" to 1 mi. 40 x 48. Surv. off.

## XXVI. COUNTY HIGHWAY SUPERVISOR

## LEGAL STATUS

The office of county highway supervisor exists under the provisions of an act of 1933. In Morgan County the county surveyor is now serving as ex officio county highway supervisor. His compensation is discussed in the essay entitled "Surveyor." A county highway supervisor other than the surveyor may be appointed at any time by the board of commissioners, subject to removal by that board at any time.<sup>1</sup>

The board of commissioners authorizes the employment of teams, trucks, and men necessary to assist in the repair work of roads (under the supervision of the county highway supervisor), and determines the rate of wages and hire therefor.<sup>2</sup>

Before 1879 the board doing county business had general supervision of the construction and repair of county roads, with the aid of district road supervisors (appointed by the board), the township trustees, and township supervisors of roads.<sup>3</sup> From 1879 to 1913 the board of commissioners was an ex officio board of turnpike directors for that purpose. The board divided the county into three districts, and each director had personal supervision of one of such districts.<sup>4</sup> In 1913 this board was abolished and the office of county highway superintendent was created. The superintendent was appointed biennially by the board of commissioners and placed in charge of maintenance of all roads, bridges, and culverts in the county.<sup>5</sup> In 1933 this office was abolished<sup>6</sup> and the office of county highway supervisor was created.<sup>7</sup>

## FUNCTIONS AND RECORDS

The county highway supervisor has general charge of the

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<sup>1</sup> Acts 1933; Burns 36-1101, 36-1110, 49-1010; Baldwin 8699, 8708, 7540. *Opinions of the Attorney General of Indiana, 1935*, p. 205.

Serving as surveyor and also as county highway supervisor is not prohibited by the constitution. *State ex rel. Bateman v. Hart* (1914), 181 Ind. 592, 105 N. E. 149.

<sup>2</sup> Acts 1933; Burns 36-1107; Baldwin 8705.

<sup>3</sup> Acts 1816 (general), ch. 8. Acts 1817-18 (general), ch. 43. Acts 1818-19 (general), ch. 11. Rev. Laws 1824, ch. 87. Rev. Laws 1831, ch. 20, sec. 22; ch. 82. Rev. Stat. 1838, ch. 91. Rev. Stat. 1843, ch. 4, secs. 26, 160; ch. 16. 1 Rev. Stat. 1852, ch. 48.

<sup>4</sup> Acts 1879 (Spec. Sess.), ch. 115, sec. 1.

<sup>5</sup> Acts 1913, ch. 320, secs. 1, 2. *State ex rel. Bateman v. Hart* (1914), 181 Ind. 592, 105 N. E. 149.

<sup>6</sup> Acts 1933; Burns 36-1113.

<sup>7</sup> Acts 1933; Burns 36-1110; Baldwin 8708.

maintenance of county roads, bridges, and culverts;<sup>8</sup> divides the county into road districts; maps all existing roads, giving each road a separate name or number and setting forth the length and character of each road and the kind and volume of traffic;<sup>9</sup> fixes maximum limits of loads for roads, bridges, culverts;<sup>10</sup> establishes standards for maintenance according to topography, nature, volume of traffic, and the availability of repair materials; annually makes a budget estimate of the cost of maintenance during the next calender year;<sup>11</sup> and attends meetings of the board of commissioners<sup>12</sup> and sessions of the annual road school at Purdue University.<sup>13</sup>

The records of the county highway supervisor are maps of the highway system made by him,<sup>14</sup> reports of work in progress,<sup>15</sup> monthly reports to the board of commissioners of all work done, and an annual report of his work, with a complete statement of all expenditures under his supervision.<sup>16</sup>

#### PUBLIC IMPROVEMENTS

(See also entries 22, 23, 230-235, 394-396)

399. COUNTY HIGHWAY SUPERINTENDENT'S LEDGER OF APPROPRIATIONS AND DISBURSEMENTS, 1918-20, 1938-. 5 vols. Record of expenditures for construction and maintenance of roads, showing account number, nature, and amount of expenditure; dates and amounts of appropriation and disbursements; name of claimant; nature and amount of claim; name of road; and road district number. Also contains: Ledger of Expenditures for Free Gravel Road Repairs, entry 400. Arr. num. by road district nos. No index. Hdw. 350 pp. 14 x 11 x 2. 2 vols., 1918-20, S. stor. rm., attic; 3 vols., 1938-, hwy. sup. off.

<sup>8</sup> Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

<sup>9</sup> Acts 1933; Burns 36-1109; Baldwin 8707.

<sup>10</sup> Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

<sup>11</sup> Acts 1933; Burns 36-1103; Baldwin 8701.

This budget estimate is under the control of the board of commissioners and may be changed at any time by that board. Bateman v. State (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

<sup>12</sup> Acts 1933; Burns 36-1104; Baldwin 8702.

<sup>13</sup> Acts 1933; Burns 36-1110; Baldwin 8708.

<sup>14</sup> Acts 1933; Burns 36-1109; Baldwin 8707.

<sup>15</sup> Acts 1933; Burns 36-1106; Baldwin 8704.

<sup>16</sup> Acts 1933; Burns 36-1104; Baldwin 8702.

400. LEDGER OF EXPENDITURES FOR FREE GRAVEL ROAD REPAIRS, 1916-17. 1 vol. 1918-20, 1933- in County Highway Superintendent's Ledger of Appropriations and Disbursements, entry 399.

Record of expenditures for construction and maintenance of gravel roads, showing name of road; district number; number of miles constructed or repaired; nature and quantity of materials used; unit price; amount and nature of labor used; rate per hour; names of employees and vendors of material; and date, number, and amount of warrant. Arr. by names of roads. Indexed alph. by names of employees or vendors. Hdw. 428 pp. 18 x 18 x 2½. S. stor. rm., attic.

401. RECEIPTS FOR LABOR AND MATERIAL, 1927-. 1 carton, 3 pigeonholes.

Receipt books of assistant superintendent of highways for payments of labor and materials on roads, showing dates of warrant, receipts, and filing; names of assistant highway superintendent and payee; number and amount of warrant and receipt; itemized list of labor performed and materials used; and signature of payee. Arr. chron. by dates of receipts. No index. Hdw. Carton, 12 x 18 x 24; pigeonholes, 9 x 9 x 9. 1 carton, 1927-29, N. stor. rm., attic; 3 pigeonholes, 1930-, aud. vt.

402. COUNTY HIGHWAY SUPERVISOR'S REQUISITIONS, 1936-. 1 f. d.

Duplicates of requisitions submitted to auditor by highway supervisor for materials and supplies, showing date, number, and nature of requisition; quantity and description of materials and supplies; and date and place of delivery. Arr. num. by requisition nos. No index. Typed. 11 x 13 x 20. Hwy. sup. off.

403. COUNTY HIGHWAY SUPERVISOR'S EMERGENCY PURCHASE ORDERS, 1936-. 1 f. d.

Duplicates of emergency purchase orders issued by highway supervisors for supplies and materials, showing date, number, and nature of order; names and addresses of consignor and consignee; and quantity, description, unit price, and total amount of order. Arr. num. by order nos. No index. Typed. 11 x 13 x 20. Hwy. sup. off.

404. DELIVERY ORDERS, 1936-. 1 f. d.

Duplicates of delivery orders for materials and supplies on contracts, showing dates of order, bid, and acceptance; names and addresses of consignor and consignee, requisition and order numbers, and quantity, description, and unit price of

supplies or materials. Arr. chron. by dates of orders. No index. Typed. 11 x 13 x 20. Hwy. sup. off.

405. [TIME SHEETS], 1936-. 1 f. d.

Time sheets of county highway employees, showing date of time sheet; name of employee; tractor or truck number; place, hours, and days of service; nature of work performed; and itemized list of material and supplies used. Arr. alph. by names of employees. No index. Hdw. 11 x 18 x 20. Hwy. sup. off.

## XXVII. COUNTY AGRICULTURAL AGENT

### LEGAL STATUS

The office of county agricultural agent was established in Morgan County in 1917 under the authority of an act of 1913, and was reestablished and made mandatory by an act of 1937. The county agricultural agent is appointed for a 1-year term by the director of agricultural extension service of Purdue University, with the approval of the county agricultural agent board (a state board). This board prescribes his qualifications and may remove him from office. Any vacancy in office is filled in the manner provided for making the original appointment. Before 1937 the county agricultural agent was appointed annually by Purdue University (except that reappointments after 1923 could be made for 2-year terms), subject to the approval of the state and county boards of education. The county council is required to appropriate \$1,000 annually for the expenses of his office. The act of 1937 provides that the county agricultural agent is to receive through Purdue University an annual salary of not less than \$2,000 (to be paid from a certain state fund provided for in that act), and that the county agricultural agent board must "make a distribution of state funds to the several counties, on a graduated scale, according to the qualifications of the county agricultural agent employed therein and the needs of the county."<sup>1</sup>

<sup>1</sup> Acts 1913, ch. 24, sec. 12. Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457. *Opinions of the Attorney General of Indiana, 1937*, pp. 144, 561. *Sixth Annual Report, Purdue University, Department of Agricultural Extension, 1917*, p. 5. Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

The appropriation act of 1939 appropriated \$165,600 per year for operating expenses of the

An act of 1829 provided for the establishment of county agricultural societies but no funds were appropriated. An amendment of this act in 1835 encouraged the county to provide funds for the development of agriculture. These early societies were short lived but were revived by an act of 1852 which provided for the offering of annual premiums by the county for the various phases of agricultural improvement. By 1890 every county in the state had its agricultural society.<sup>2</sup> The board of commissioners may authorize the payment of hall rents, printing, advertising, prizes for contests, and other local expenses of a county farmers' institute.<sup>3</sup> The county council and board of commissioners may appropriate \$200 annually for a corn growers' association or horticultural society if there is no agricultural fair or association in active operation in the county.<sup>4</sup>

#### FUNCTIONS AND RECORDS

The agricultural agent, under the supervision of Purdue University, cooperates with farmers' institutes, farmers' clubs, and other rural and civic organizations; conducts practical farm demonstrations, boys' and girls' clubs and contest work, and other movements for the advancement of agricultural and country life; gives advice to farmers on practical farm problems; and aids the superintendents of schools and the teachers of the county in giving practical education in agriculture and domestic science.<sup>5</sup>

Morgan County has a home demonstration agent to develop extension programs for the improvement and advancement of agriculture, home economics, and rural life, in harmony with federal and state laws and in close cooperation with the work

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county agricultural agent board from July 1, 1939 through June 30, 1941. Acts 1939, ch. 47, sec. 2, p. 275.

Under the law in force in 1931 the state's contribution was not available in absence of appropriation by the county council. *Opinions of the Attorney General of Indiana, 1931*, p. 826.

The county could accept funds from the local farm bureau to be paid for the expenses of the office of county agricultural agent. *Ibid.*

<sup>2</sup> Acts 1828-29, ch. 4, secs. 1, 7. Acts 1834-35 (general), ch. 70, sec. 1. 1 Rev. Stat. 1852, ch.

2. William Carroll Latta, *Outline History of Indiana Agriculture* (Lafayette, Indiana, 1938), 271-274.

An act of 1907 provided for the payment of \$100 annually by the county to promote the extension of farmers' institute work. Acts 1907, ch. 117, secs. 1, 2 (repealed by Acts 1911, ch. 54, sec. 6).

<sup>3</sup> Acts 1911; Burns 28-5625; Baldwin 3610.

<sup>4</sup> Acts 1917, 1933; Burns 15-319; Baldwin 3544.

<sup>5</sup> Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

of the county agricultural agent. The agricultural extension division of Purdue University selects the home demonstration agent and supervises her work. She must be unmarried, a graduate of a recognized school of home economics, and have some practical experience in teaching. Her salary is paid by Purdue University from federal land grant college funds. Her office expenses are paid from funds appropriated by the county council. Her term of office is indefinite. She directs all home economic extension work, both adult and junior, including girls' 4-H Clubs, and cooperates with the county schools.<sup>6</sup>

The records of the agricultural agent and home demonstration agent consist of reports to Purdue University concerning their activities, compiled under the direction of the university.<sup>7</sup>

406. [REPORTS], 1918-. 1 f. d.

Agricultural agent's reports to U. S. Department of Agriculture, Purdue University, including:

- i. Combined annual reports by county agricultural agent and home demonstration agent of general activities of extension work, 1930-, showing date of report; names of agent and members of extension committee; itemized statement of office, field, and program activities; number of farmers following program recommendations; their activities and accomplishments; complete 4-H Club report; and record of work done in connection with other federal activities. Arr. chron. by dates of reports. Hdw.
- ii. Reports and summary of accomplishments and status of extension organization, 1930-, showing date of report and period covered; programs; and general improvements gained in farm crops, horticulture, livestock, poultry, farm management, and agricultural adjustments and engineering. Arr. chron. by dates of reports. Typed.

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<sup>6</sup> U. S. C., title 7, secs. 341 to 343, 344 to 348 (law of 1914). Acts 1931; Burns 28-5627; Baldwin 6475. Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

<sup>7</sup> Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

iii. Agent's annual narrative reports to U. S. Department of Agriculture, Purdue University and county superintendent of schools of club activities, 1918-, showing date of report and period covered, name of agent, vocational teachers and club leaders, sex and school attendance of club members, total membership, scope of projects, and itemized record of activities and results attained. Arr. chron. by dates of reports. Hdw.

No index. 26 x 15 x 13½. Agr. agt. off., Federal Bldg.

407. [MISCELLANEOUS PAPERS], 1933-. 16 f. d.

Miscellaneous papers, including:

- i. Financial budgets of estimated expenses and salaries of conservation association members and employees, 1933-, showing date of estimate and period covered; names of members, officers, and employees; titles of accounts; itemized list of salaries and other expenses; total budget; and code number. Arr. chron. by dates of budgets.
- ii. Transmittal sheets of applications to cooperate with agricultural conservation program, forwarded to U. S. Department of Agriculture, 1936-, showing date of transmittal sheet, names and addresses of applicants, application serial numbers, and number of farms owned and operated. Arr. by names of twps., thereunder chron. by dates of transmittal sheets.
- iii. Lists of all checks received from Treasury Department for distribution to farmers cooperating with conservation program, 1936-, showing date of check and mailing, name and address of payee, net amount due payee, amount of check, and application serial and check numbers. Arr. chron. by dates of checks.
- iv. Minutes of community elections and meetings of board of directors of county agricultural association, 1936-, showing date, hour, and place of meeting; names of members or directors present and additional members elected; number of persons voting in elections; business transacted; and action taken. Arr. chron. by dates of meetings.
- v. Work sheets of notices and basis of soil depleting, 1936-, showing date of work sheet, inspections,

and notice; name and address of farm owner; name of operator and reporter; application serial number; location, description, and map of farm; estimated acreage of fields and crops; history of fields; description of conservation activities; acreage of productive and nonproductive land; animal units; number of milch cows now on farm; and base years and yield. Arr. by names of twps., thereunder by names of farm owners.

No index. Typed. 26 x 15 x 13½. Agr. agt. off., Federal Bldg.

408. [AGRICULTURAL SOIL DEPLETION PROGRAM], 1933-. 4  
pigeonholes.

Listing sheets of landowners and operators cooperating with conservation program, showing date of sheet, name of landowner or operator, farm number, description and location of farm, crop acreage past 3 years, average for past 5 years and indicated for next year, percentage of county committee's allotment for next year's crop, amount of last year's approved production, recommendation for next year's extension, and average yearly yield of corn and wheat. Arr. num. by farm nos. No index. Hdw. 12 x 12 x 18. Agr. agt. off., Federal Bldg.

409. [RURAL ELECTRIC ASSOCIATION], 1938-. 1 f. b.

Applications of farm and home owners for membership in association and for electric service, showing date of application, name and address of applicant and rural electric association, agreement and conditions of membership, and amount of fee paid. Arr. by names of twps., thereunder alph. by names of applicants. No index. Hdw. 5 x 8 x 2. Agr. agt. off., Federal Bldg.

410. [CORN-HOG ADMINISTRATION], 1933-36. 6 f. d. Discontinued.

Copies of corn-hog contracts, showing date of contract and proof of compliance, name of farm owner or operator, location and map of farm, annual average number of hogs raised and amount of corn produced for past 5 years, number of hogs and acres of corn as per contract for current year, and proof of compliance. Arr. by names of twps., thereunder alph. by names of farm owners or operators. No index. Typed. 26 x 15 x 13½. Agr. agt. stor. rm., Federal Bldg.

411. [WHEAT PROGRAM ADMINISTRATION], 1933-36. 2 f. d. Discontinued.

Copies of wheat contracts, showing dates of contract and

proof of compliance, name of landowner or operator, location and map of farm, total acreage and number of acres devoted to wheat raising, and proof of compliance. Arr. by names of twps., thereunder alph. by names of owners or operators. No index. Typed. 26 x 15 x 13½. Agr. agt. stor. rm., Federal Bldg.

412. [TOBACCO], 1933-36. 1 f. d. Discontinued. Copies of tobacco contracts, showing dates of contract and proof of compliance, name of landowner or operator, location and map of farm, conditions of contract, total acreage and number of acres devoted to tobacco raising, and proof of compliance. Arr. by names of twps., thereunder alph. by names of owners or operators. No index. Typed. 26 x 15 x 13½. Agr. agt. stor. rm., Federal Bldg.

## XXVIII. COMMISSION OF PUBLIC RECORDS

### LEGAL STATUS

The commission of public records of Morgan County exists under the mandatory provisions of an act of 1939. The commission consists of the judge and clerk of the circuit court, the president of the board of commissioners, and the county auditor. The clerk of the circuit court is secretary, and another member (selected by the commission) serves as chairman.<sup>1</sup>

The members of the commission serve without compensation and receive no reimbursement for any expenses.<sup>2</sup>

An act of 1877 required the board of commissioners to order copies to be made of any public records in the county when necessary for their preservation.<sup>3</sup> An act of 1925 provided that any public official, at his discretion, may turn over to the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials, not in current use in his office;<sup>4</sup> and an amendatory act of 1937 added

<sup>1</sup> Acts 1939; Burns, 1939 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

For laws concerning eligibility, oath, and removal of these officers, see the essays on "Circuit Court," "Board of Commissioners," "Auditor," and "Clerk of the Circuit Court."

<sup>2</sup> Acts 1939; Burns, 1939 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

<sup>3</sup> Acts 1877; Burns 26-634; Baldwin 5339.

<sup>4</sup> Acts 1925; Burns 63-830; Baldwin 10287.

a provision that the director of the state library, at his discretion, may make a copy of any official book, record, document, original paper, newspaper, or printed book or material in any public office, for preservation in the state archives.<sup>5</sup> An act of 1935 created within the executive department of the state a "commission on public records," consisting of the governor, the secretary of state, the state examiner, the director of the state library, and the director of the historical bureau. This act is almost identical with the act of 1939 creating a "commission of public records" in each county, except for the provisions relative to ex officio members of the commission.<sup>6</sup> These laws reflect the past and present attitudes of the general assembly toward the preservation of public records.

#### FUNCTIONS AND RECORDS

It is the duty of the commission to classify public records on the following basis: Those (a) having no official or historical value; (b) those of current official value; (c) those of official value, but rarely consulted and of no appreciable value to the officer with whom they are filed; and (d) those of purely historical value.<sup>7</sup>

Records of class (a), occupying space to no purpose in the offices and storerooms of the county, must be destroyed or otherwise disposed of 3 years after they were originally filed, unless a law prohibits their destruction or requires that they be kept beyond that period.<sup>8</sup> Records of class (b) are to be "retained in the office where they are required to be filed."<sup>9</sup>

Record of classes (c) and (d) must be transferred to the state library 3 years after the date of filing, unless they are then in frequent use by officer in charge. In the event of such transfer, the records of class (c) will be added to the "archives" of the library, while those of class (d) will constitute a part of the "collection" of that institution,<sup>10</sup>

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<sup>5</sup> Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

<sup>6</sup> Acts 1935; Burns, 1939 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10.

*Opinions of the Attorney General of Indiana, 1939*, p. 259.

<sup>7</sup> Acts 1939; Burns, 1939 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.

<sup>8</sup> Acts 1939; Burns, 1939 suppl., 49-3703, 49-3704; Baldwin, 1939 suppl., 5492-3, 5492-4.

<sup>9</sup> Acts 1939; Burns, 1939 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.

<sup>10</sup> Acts 1939; Burns, 1939 suppl., 49-3704 to 49-3706; Baldwin, 1939 suppl., 5492-4 to 5492-6.

When any public records are ordered destroyed or transferred, the commission must enter an order to that effect on its minutes. The order must be dated and must contain a general description of the public records to be destroyed or transferred.<sup>11</sup>

It is unlawful for any public official or person to destroy any public record unless the commission has previously given its approval in writing and entered such approval on the minutes of the commission.<sup>12</sup>

Within the meaning of the act of 1939, a public record is any written or printed book, paper, document, map, or drawing which is the property of any county, and in or on which any entry has been made or is required by law to be made, or which any officer or employee of the state has received or is required to receive for filing.<sup>13</sup>

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<sup>11</sup> Acts 1939; Burns, 1939 suppl., 49-3707; Baldwin, 1939 suppl., 5492-7.

<sup>12</sup> Acts 1939; Burns, 1939 suppl., 49-3708; Baldwin, 1939 suppl., 5492-8.

<sup>13</sup> Acts 1939; Burns, 1939 suppl., 49-3709; Baldwin, 1939 suppl., 5492-9.



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